

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

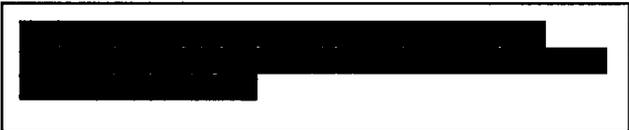
BWX TECHNOLOGIES, INC.)
LYNCHBURG TECHNOLOGY CENTER)
MT ATHOS ROAD)
P.O. BOX 785)
LYNCHBURG, VA 24505)

EA-07-011
Docket No. 70-27

**ORDER MODIFYING LICENSE
(EFFECTIVE IMMEDIATELY)**

BWX Technologies, Inc. (BWXT) holds a license, issued by the U.S. Nuclear Regulatory Commission (NRC or the Commission), authorizing receipt, acquisition, possession, and transfer of byproduct, source, and special nuclear material (SNM), in accordance with the Atomic Energy Act of 1954 and Title 10 of the Code of Federal Regulations (10 CFR) Part 50 and 10 CFR Part 72.

Warning: Violation of Section 147 of the Atomic Energy Act, "Safeguards Information," is subject to Civil and Criminal Penalties.



Enclosure



[REDACTED]

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, using large commercial aircraft as weapons. In response to the attacks, and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees, to strengthen the licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. On October 16, 2002, the Commission issued Orders to the licensees that operate independent spent fuel storage installations (ISFSIs), to put the actions taken in response to the Advisories in the established regulatory framework, and to implement additional security enhancements which emerged from the NRC's ongoing comprehensive review. The Commission has also communicated with other Federal, State, and local government agencies, and industry representatives to discuss and evaluate the current threat environment and to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures are required to address the current threat environment in a consistent manner throughout the nuclear community. These requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the

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measures set forth in the Attachment to this Order in response to the previously issued advisories of the October 2002 Order. It also recognizes that some measures may not be possible or necessary at some sites, or may need to be tailored to accommodate the specific circumstances existing at the licensee's facility, to achieve the intended objectives and avoid any unforeseen effect on the safe storage of spent fuel.

Although the additional security measures implemented by the licensees, in response to the Safeguards and Threat Advisories, have been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission concludes that these actions must be supplemented further because the current threat environment continues to persist. Therefore, it is appropriate to require certain additional security measures, and these measures must be embodied in an Order, consistent with the established regulatory framework.

To provide assurance that BWXT is implementing prudent measures to achieve a consistent level of protection to address the current threat environment, BWXT's license, issued pursuant to 10 CFR 70.31, shall be modified to include the requirements identified in the Attachment to this Order. In addition, pursuant to 10 CFR 2.202, the Commission finds that, in light of the common defense and security matters described above, the public health, safety, and interest require that this Order be immediately effective.

III

Accordingly, pursuant to Sections 53, 103, 104, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 50, 72, and 73, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT YOUR LICENSE IS MODIFIED AS FOLLOWS:



- A. BWXT shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in the Attachment to this Order except to the extent that a more stringent requirement is set forth in BWXT's security plan. BWXT shall immediately start implementation of the requirements in the Attachment to the Order, and shall complete implementation no later than June 29, 2007, with the exception of the additional security measure B.4, which shall be implemented no later than July 31, 2007.
- B. 1. BWXT shall, within twenty (20) days of the date of this Order, notify the Commission:
- (1) if it is unable to comply with any of the requirements described in the Attachment;
 - (2) if compliance with any of the requirements is unnecessary, in its specific circumstances; or (3) if implementation of any of the requirements would cause BWXT to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide BWXT's justification for seeking relief from, or variation of, any specific requirement.
2. If BWXT considers that implementation of any of the requirements described in the Attachment to this Order would adversely impact the safe storage of spent fuel, BWXT must notify the Commission, within twenty (20) days of the date of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment requirements in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate,



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BWXT must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications, as required under Condition B.1.

- C. 1. BWXT shall, within twenty (20) days of the date of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in the Attachment.
- 2. BWXT shall report to the Commission, when it has achieved full compliance with the requirements described in the Attachment.
- D. All measures implemented, or actions taken in response to this Order, shall be maintained until the Commission determines otherwise.

BWXT's response to Conditions B.1, B.2, C.1, and C.2, above, shall be submitted in accordance with 10 CFR 72.4. In addition, submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 CFR 73.21. The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions, upon BWXT's demonstration of good cause.

IV

In accordance with 10 CFR 2.202, BWXT must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing concerning this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer must be made in writing to the Director, Office of Nuclear

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Material Safety and Safeguards, and the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the licensee or any other person adversely affected relies, and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies

shall also be sent to: (1) the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; (2) the Director, Office of Enforcement, at the same address; (3) the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; (4) the Regional Administrator for NRC Region II, at 61 Forsyth Street, SW, Suite 23T85, Atlanta, GA 30303-8931; and (5) the licensee, if the answer or hearing request is by a person other than the licensee. Because of possible delays in delivery of mail to United States Government offices, it is requested that all requests for a hearing be transmitted to the Secretary of the Commission, either by means of facsimile transmission to 301-415-1101, or via e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel, either by means of facsimile transmission to 301-415-3725, or via e-mail to OGCMailCenter@nrc.gov. If a person other than BWXT requests a hearing, that person shall set forth, with particularity, the manner in which their interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by BWXT or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of a hearing. If a hearing is

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held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), BWXT may, in addition to demanding a hearing at the time the answer is filed, or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence, but on mere suspicion, unfounded allegations, or error.

In the absence of a request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III, above, shall be final twenty (20) days from the date of this Order, without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires, if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated this 16th day of January 2007

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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

Attachment: Additional Security Measures
(Safeguards Information)