



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 29, 2024

Mr. Steve W. Schilthelm, Director
Regulatory & Mission Assurance
BWXT Advanced Technologies, LLC.
109 Ramsey Place
Lynchburg, VA 24501

SUBJECT: REQUEST FOR WITHHOLDING PROPRIETARY INFORMATION FROM
PUBLIC DISCLOSURE FOR BWXT ADVANCED TECHNOLOGIES, LLC
WHITE PAPER BANR-TECR-116543, REVISION 0, "BANR UN TRISO FUEL
QUALIFICATION PLAN"

Dear Mr. Schilthelm:

By letter dated December 20, 2023 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML24004A171), BWXT Advanced Technologies, LLC (BWXT AT) submitted an affidavit executed by Joseph K. Miller to the U.S. Nuclear Regulatory Commission (NRC) staff requesting that the agency withhold the information from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390, "Public inspections, exemptions, requests for withholding":

BANR-TECR-116543, "BANR UN TRISO Fuel Qualification Plan"

A publicly available version of the document can be found at ML24004A173. The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- a. The information sought to be withheld from public disclosure is owned and has been held in confidence by BWXT;
- b. The information is of a type customarily held in confidence by BWXT and not customarily disclosed to the public. BWXT has a rational basis for determining the types of information customarily held in confidence by it and, in that connection, utilizes a system to determine when and whether to hold certain types of information in confidence. The application of that system and the substance of that system constitute BWXT policy and provide the rational basis required;
- c. The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR 2.390, it is to be received in confidence by the Commission;
- d. This information is not readily available in public sources;

- e. Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of BWXT in multiple ways. First, because it would enhance the ability of competitors to provide similar products and services by reducing their expenditure of resources using similar project methods, equipment, testing approach, contractors, or licensing approaches. Second, with knowledge of BWXT AT's approaches and techniques, technical, financial, and other relevant information, competitors will gain information of significant value which they can use to both attack or weaken those BWXT AT approaches and techniques as well as shore up their own approaches and techniques through comparison and/or copying. This information is the result of considerable expense to BWXT and has great value in that it will assist BWXT in providing products and services to new, expanding markets not currently served by the company;
- f. The information could reveal or could be used to infer price information, cost information, budget levels, or commercial strategies of BWXT;
- g. Unrestricted disclosure would jeopardize the position of BWXT in the world market, and thereby give a market advantage to the competition in those countries.

The NRC staff has reviewed the December 20, 2023, affidavit and the subject material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, has determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the NRC staff agrees to withhold this document from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding the submittal from public inspection will not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, the NRC staff may send copies of the information to its consultants working in this area. The NRC staff will ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future, such that the information could then be made available for public inspection, BWXT AT should promptly notify the NRC staff. BWXT AT also should understand that the NRC staff may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes BWXT AT information.

In all review situations, the NRC staff will follow applicable laws, regulations, and policies in conducting its review, including the NRC's policies on notifying the owner of information in advance of any public disclosure.

If you have any questions regarding this matter, please contact me at (301) 415-3229 or via email at Michael.Orenak@nrc.gov.

Sincerely,

Michael Orenak, Project Manager
Advanced Reactor Licensing Branch 1
Division of Advanced Reactors and Non-Power
Production and Utilization Facilities
Office of Nuclear Reactor Regulation

Project No.: 99901469

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NRR-084

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