

June 29, 2006

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - COMSECY-05-0054 - POLICY
REVISION: HANDLING, MARKING, AND PROTECTING
SENSITIVE UNCLASSIFIED NON-SAFEGUARDS
INFORMATION (SUNSI)

The Commission has disapproved the revised policy on handling, marking, and protecting sensitive unclassified non-safeguards information (SUNSI). The staff should develop a simplified policy, including a two-tiered handling regime, that incorporates the seven existing SUNSI categories and incorporate performance based, common sense approaches when possible, subject to the specific directions contained in this SRM. In re-examining the SUNSI policy, the staff should review the handling requirements in all areas to determine how best to incorporate them into a two-tiered system. While the staff develops the simplified policy, it should continue to use the SUNSI policy it has in place.

The staff should take notice of the recent Presidential "Memorandum for the Heads of Executive Departments and Agencies," dated December 16, 2005. This memorandum states that acquisition, access, retention, production, use, management, and sharing of sensitive but unclassified information must be standardized across the Federal Government. This may necessitate additional changes to the SUNSI guidance and training depending on the results of the standardization effort. The staff's simplified two-tiered system is intended to be a interim process that will eliminate the complexity of the current SUNSI policy, and allow for an easier transition following the outcome of the standardization initiative.

1. The policy should require that sensitive documents be marked on each page to designate them as SUNSI, the appropriate SUNSI category, and the appropriate handling tier that will establish the corresponding handling requirements that must be used. A document should not be marked sensitive simply because it is not yet publicly available, or because it is a voting paper for the Commission.
2. Allegation, Investigation, Security-Related Information, and Privacy Act information should be placed into Tier 2. Cover sheets should be used for Allegations, and Investigation information only.
3. The policy should note that Federal, State, and foreign government and international agency controlled information retains the originating agency's cover sheet, markings, and handling requirements. This requirement should not necessarily be extended to information submitted by one of these entities acting in the capacity of an applicant or licensee of the NRC. The staff should make its own determination as to the marking of

information in such situations.

4. Any other proposed additions to the SUNSI groups or expansion of the applicable document categories within a SUNSI group should be brought to the Commission's attention.
5. In developing the new policy, the staff should create more descriptive labels for marking Sensitive Internal Information that would clearly note whether the document should be indefinitely withheld, or can be released at a certain time. Any material deemed to be SUNSI, but only for a limited period of time, should include a calendar date for its release in its marking designation if the staff can determine that the document would no longer qualify as SUNSI material after that date. If no calendar date can be derived, the documents should be designated SUNSI without expiration and can be considered for public release as part of any future periodic review.
6. The staff should defer implementation of the SUNSI policy with respect to the use of encrypted e-mail until the Executive Branch standardizes a Federal government policy.
7. In determining the appropriate policy for destruction of Tier 1 and Tier 2 SUNSI, the staff should examine whether the current destruction methods and requirements are necessary and whether the agency has the resources to implement the destruction procedures.
8. The staff should establish a procedure for periodic review of documents designated as SUNSI- "sensitive internal information" and SUNSI-"security-related material". The review should cover only those documents that were not marked with a release date and are not designated as attorney-client privilege, attorney work product, or predecisional enforcement information. The periodicity for such reviews should be every 7 years starting from the time this new policy is implemented. The staff should not review documents that were marked as SUNSI prior to implementation. Additionally, the staff should "tag" documents subject to periodic review through modification of the ADAMS profile in order to facilitate this review. The staff should inform the Commission by June 30, 2007, of the estimated resources necessary to implement the periodic review.

Once the new SUNSI policy is in place, training should be mandatory for all NRC agency personnel, and offered to external stakeholders. Follow-up training should be offered to agency personnel.

In view of the Agency's receipt of OMB's June 23, 2006, "Memorandum for the Heads of Departments and Agencies," concerning safeguarding of information while using information technology, the staff should provide recommendations to the Commission for any further revisions to the SUNSI policy within 10 days.

(EDO)

(SECY Suspense:

7/14/06)

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
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Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR