December 12, 2007

MEMORANDUM TO: FCSS Staff

FROM: Robert C. Pierson, Director **/RA/**
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

SUBJECT: EXPECTATIONS FOR FCSS STAFF ON OFFICIAL USE ONLY POLICY AS IT APPLIES TO THE REQUIREMENTS OF SECTION 189A OF THE ATOMIC ENERGY ACT (HEARING RIGHTS) AND STAFF REQUIREMENTS-SECY-07-0129, "REVISIONS TO POLICY GOVERNING PUBLIC AVAILABILITY OF INFORMATION ASSOCIATED WITH CATEGORY 1 FUEL FACILITIES", DATED AUGUST 31, 2007

Objectives:

1. To reinforce to the Fuel Cycle Safety and Safeguards (FCSS) staff the Nuclear Regulatory Commission's (NRC) responsibilities under Section 189a of the Atomic Energy Act.

2. To provide the FCSS staff with guidance for the redaction of fuel facilities licensing, inspection, and event notification documents.

Background:

The NRC had withheld from public release 10 CFR Part 40, 70, and 76 licensing actions, since June 2004, pursuant to the policy of withholding Sensitive Unclassified Non-Safeguards Information (SUNSI) and an unique policy associated with Official Use Only (OUO) Information related to Nuclear Fuel Services (NFS)/BWX Technologies, Inc., (BWXT). The NRC has re-evaluated these policies and has made these past licensing actions and enforcement orders, with suitable redactions, available to the public in the Agencywide Documents Access and Management System (ADAMS). The purpose of making these documents available is to provide members of the public with an opportunity for a hearing on licensing actions before the NRC in accordance with section 189a of the Atomic Energy Act (Act).

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Discussion:

Section 189a (1)(A) of the Act provides that for any proceeding under the Act for the "granting, suspending, revoking,or amending of any license...the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding and shall admit any such person as a party to such proceeding." Currently, the public learns of proposed fuel cycle licensing actions either through the publication of a "*Federal Register* Notices or by obtaining the application through NRC public ADAMS system. In addition, the NRC publishes enforcement orders in the *Federal Register*. These practices give the public notice of the pending actions and the opportunity to request a hearing.

In SECY-07-0129, " Revisions To Policy Governing Public Availability of Information Associated with Category 1 Fuel Facilities", dated August 3, 2007, the staff recommended that SUNSI guidance be applied to all documents related to NFS and BWXT, that are not marked as classified or safeguards and that the staff prepare and release redacted versions of Category 1 fuel facilities documents containing sensitive information. The staff also recommended that current Category 1 facilities documents from January 2004 to date that are not in the public ADAMS system be reviewed based on current SUNSI guidance and a redacted version placed in Public ADAMS system. In Staff Requirements Memorandum SECY-07-0129, dated August 31, 2007, the Commission approved the staff recommendation, with the modification that only a subset of all of the Category 1 facility documents issued after January 2004 be redacted. The subset of documents included inspection reports, licensee performance reviews, enforcement actions (non-orders), event reports, and other documents witch the staff determines to be relevant.

The attached screening guidance entitled "Quick Screening Process for Determining the Presence of Security - Related Controlled Unclassified Information in Fuel Cycle-Related documents" dated October 5, 2007, has been developed to assist the FCSS staff in screening and redacting Fuel facilities documents.

FCSS Staff Action:

Based on the discussion above, as directed by SRM SECY-07-0129, the staff shall screen future documents that are not safeguards or classified for NFS and BWXT using the attached screening guidance and redact these documents and place a public version into ADAMS system. The subset of historical documents for NFS and BWXT shall also be redacted using the attached screening guidance. The screening guidance shall be incorporated into the next revision of the FCSS Project Manager (PM) handbook.

Because of the NRC obligation under the Act to allow the public an opportunity to request a hearing, I remind the FCSS staff that **all fuel cycle licensing actions are required to be placed into the public ADAMS system at least in part (i.e. as a minimum requesters cover-letter and NRC acknowledgement of the request).**

Enclosure:
Quick Screening Process for
Determining the Presence of
Security-Related Controlled
Unclassified Information in
Fuel Cycle-Related Documents

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