

## § 95.1

- 95.51 Retrieval of classified matter following suspension or revocation of access authorization.
- 95.53 Termination of facility clearance.
- 95.55 Continued applicability of the regulations in this part.
- 95.57 Reports.
- 95.59 Inspections.

### VIOLATIONS

- 95.61 Violations.
- 95.63 Criminal penalties.

AUTHORITY: Secs. 145, 161, 193, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959-1963 COMP., p. 398 (50 U.S.C. 401, note); E.O. 12829, 3 CFR, 1993 Comp., p. 570; E.O. 12958, as amended, 3 CFR, 1995 Comp., p. 333; E.O. 12968, 3 CFR, 1995 Comp., p. 391.

SOURCE: 45 FR 14483, Mar. 5, 1980, unless otherwise noted.

### GENERAL PROVISIONS

#### § 95.1 Purpose.

The regulations in this part establish procedures for obtaining security facility approval and for safeguarding Secret and Confidential National Security Information and Restricted Data received or developed in conjunction with activities licensed, certified or regulated by the Commission. This part does not apply to Top Secret information because Top Secret information may not be forwarded to licensees, certificate holders, or others within the scope of an NRC license or certificate.

[62 FR 17690, Apr. 11, 1997]

#### § 95.3 Scope.

The regulations in this part apply to licensees, certificate holders and others regulated by the Commission who may require access to classified National Security Information and/or Restricted Data and/or Formerly Restricted Data (FRD) that is used, processed, stored, reproduced, transmitted, transported, or handled in connection with a license or certificate or an application for a license or certificate.

[62 FR 17690, Apr. 11, 1997]

#### § 95.5 Definitions.

*Access authorization* means an administrative determination that an individual (including a consultant) who is

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employed by or an applicant for employment with the NRC, NRC contractors, agents, licensees and certificate holders, or other persons designated by the Executive Director for Operations, is eligible for a security clearance for access to classified information.

*Act* means the Atomic Energy Act of 1954 (68 Stat. 919), as amended.

*Classified mail address* means a mail address established for each facility approved by the NRC, to which all classified information for the facility is to be sent.

*Classified matter* means documents or material containing classified information.

*Classified National Security Information* means information that has been determined pursuant to E.O. 12958 or any predecessor order to require protection against unauthorized disclosure and that is so designated.

*Classified shipping address* means an address established for a facility, approved by the NRC to which classified material that cannot be transmitted as normal mail is to be sent.

*Closed area* means an area that meets the requirements of the CSA, for the purpose of safeguarding classified material that, because of its size, nature, or operational necessity, cannot be adequately protected by the normal safeguards or stored during non-working hours in approved containers.

*Cognizant Security Agency (CSA)* means agencies of the Executive Branch that have been authorized by E.O. 12829 to establish an industrial security program for the purpose of safeguarding classified information under the jurisdiction of those agencies when disclosed or released or released to U.S. industry. These agencies are the Department of Defense, the department of Energy, the Central Intelligence Agency, and the Nuclear Regulatory Commission. A facility has a CSA which exercises primary authority for the protection of classified information at the facility. The CSA for the facility provides security representation for other government agencies with security interests at the facility. The Secretary of Defense has been as Executive Agent for the National Industrial Security Program.

## Nuclear Regulatory Commission

## § 95.5

*Combination lock* means a three position, manipulation resistant, dial type lock bearing an Underwriters' Laboratories, Inc. certification that it is a Group 1 or Group IR unit.

*Commission* means the Nuclear Regulatory Commission or its duly authorized representatives.

*Facility (Security) Clearance (FCL)* means an administrative determination that, from a security viewpoint, a facility is eligible for access to classified information of a certain category (and all lower categories).

*Foreign ownership, control, or influence (FOCI)* means a foreign interest that has the power, direct or indirect, whether or not exercised, and whether or not exercisable through the ownership of a U.S. company's securities, by contractual arrangements or other means, to direct or decide matters affecting the management or operations of that company in a manner which may result in unauthorized access to classified information or may affect adversely the performance of classified contracts.

*Infraction* means any knowing, willful, or negligent action contrary to the requirements of E.O. 12958, or its implementing directives, that does not comprise a "violation," as defined in this section.

*Intrusion alarm* means a tamper-indicating electrical, electro-mechanical, electro-optical, electronic or similar device which will detect unauthorized intrusion by an individual into a building, protected area, security area, vital area, or material access area, and alert guards or watchmen by means of actuated visible and audible signals.

*License* means a license issued pursuant to 10 CFR parts 50, 70, or 72.

*Material* means chemical substance without regard to form; fabricated or processed item; or assembly, machinery or equipment.

*Matter* means documents or material.

*National security* means the national defense or foreign relations of the United States.

*Need-to-know* means a determination made by an authorized holder of classified information that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized

governmental function under the cognizance of the Commission.

*NRC "L" access authorization* means an access authorization granted by the Commission normally based on a national agency check with law and credit investigation (NACLC) or an access national agency check and inquiries investigation (ANACI) conducted by the Office of Personnel Management.

*NRC "Q" access authorization* means an access authorization granted by the Commission normally based on a single scope background investigation conducted by the Office of Personnel Management, the Federal Bureau of Investigation, or other U.S. Government agency that conducts personnel security investigations.

*Person* means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy (DOE), except that the DOE shall be considered a person to the extent that its facilities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974 and sections 104, 105 and 202 of the Uranium Mill Tailings Radiation Control Act of 1978, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent or agency of the foregoing.

*Protective personnel* means guards or watchmen as defined in 10 CFR part 73 or other persons designated responsibility for the protection of classified matter.

*Restricted area* means a controlled access area established to safeguard classified material, that, because of its size or nature, cannot be adequately protected during working hours by the usual safeguards, but that is capable of being stored during non-working hours in an approved repository or secured by other methods approved by the CSA.

*Restricted data* means all data concerning design, manufacture or utilization of atomic weapons, the production of special nuclear material, or the use

of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Act.

*Security area* means a physically defined space containing classified matter and subject to physical protection and personnel access controls.

*Security container* includes any of the following repositories:

(1) A security filing cabinet—one that bears a Test Certification Label on the side of the locking drawer, inside wall adjacent to the locking drawer, or interior door plate, or is marked, “General Services Administration Approved Security Container” on the exterior of the top drawer or door.

(2) A safe—burglar-resistive cabinet or chest which bears a label of the Underwriters’ Laboratories, Inc. certifying the unit to be a TL–15, TL–30, or TRTL–30, and has a body fabricated of not less than 1 inch of steel and a door fabricated of not less than 1½ inches of steel exclusive of the combination lock and bolt work; or bears a Test Certification Label on the inside of the door, or is marked “General Services Administration Approved Security Container” and has a body of steel at least ½ inch thick, and a combination locked steel door at least 1 inch thick, exclusive of bolt work and locking devices; and an automatic unit locking mechanism.

(3) A vault—a windowless enclosure constructed with walls, floor, roof, and door(s) that will delay penetration sufficient to enable the arrival of emergency response forces capable of preventing theft, diversion, damage, or compromise of classified information or matter, when delay time is assessed in conjunction with detection and communication subsystems of the physical protection system.

(4) A vault-type room—a room that has a combination lock door and is protected by an intrusion alarm system that alarms upon the unauthorized penetration of a person anywhere into the room.

(5) Other repositories that would provide comparable physical protection in the judgment of the Division of Facilities and Security.

*Security facility*—any facility which has been approved by NRC for using,

processing, storing, reproducing, transmitting or handling classified matter.

*Security reviews* means aperiodic security reviews of cleared facilities conducted to ensure that safeguards employed by licensees and others are adequate for the protection of classified information.

*Supplemental protection* means additional security procedures such as intrusion detection systems, security guards, and access control systems.

*Violation* means any knowing, willful, or negligent action that could reasonably be expected to result in an unauthorized disclosure of classified information or any knowing, willful, or negligent action to classify or continue the classification of information contrary to the requirements of E.O. 12958 or its implementing directives.

[45 FR 14483, Mar. 5, 1980, as amended at 46 FR 58284, Dec. 1, 1981; 47 FR 38683, Sept. 2, 1982; 48 FR 24320, June 1, 1983; 50 FR 36984, Sept. 11, 1985; 55 FR 11575, Mar. 29, 1990; 55 FR 14379, Apr. 17, 1990; 59 FR 48974, Sept. 23, 1994; 62 FR 17691, Apr. 11, 1997; 64 FR 15649, Apr. 1, 1999]

#### § 95.7 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

#### § 95.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150–0047.

(b) The approved information collection requirements contained in this part appear in §§ 95.11, 95.15, 95.17, 95.18,