

UCNI),” to distinguish it from a similar Department of Energy (DoE) program.

§ 223.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as “the DoD Components”).

(b) Implements 10 U.S.C. 128, which is the statutory basis for controlling the DoD UCNI in the Department of Defense. 10 U.S.C. 128 also constitutes the authority for invoking 32 CFR part 286 to prohibit mandatory disclosure of DoD UCNI under the “Freedom of Information Act (FOIA)” in 5 U.S.C. 552.

(c) Supplements the security classification guidance contained in CG-W-5¹ and CG-SS-1² and DoD Instruction 5210.67³ by establishing procedures for identifying, controlling, and limiting the dissemination of unclassified information on the physical protection of DoD SNM.

(d) Applies to all SNM, regardless of form, in reactor cores or to other items under the direct control of the DoD Components.

(e) Applies equally to DoE UCNI under DoD control, except the statute applicable to DoE UCNI (42 U.S.C. 2011 *et seq.*) must be used with the concurrence of the DoE as the basis for invoking FOIA (section 552 of 10 U.S.C.).

§ 223.3 Definitions.

(a) *Atomic Energy Defense Programs.* Activities, equipment, and facilities of the Department of Defense used or engaged in support of the following:

(1) Development, production, testing, sampling, maintenance, repair, modi-

fication, assembly, utilization, transportation, or retirement of nuclear weapons or nuclear weapon components.

(2) Production, utilization, or transportation of DoD SNM for military applications.

(3) Safeguarding of activities, equipment, or facilities that support the functions in paragraphs (a) (1) and (2) of this section, including the protection of nuclear weapons, nuclear weapon components, or DoD SNM for military applications at a fixed facility or in transit.

(b) *Authorized Individual.* A person who has been granted routine access to specific DoD UCNI under 10 U.S.C. 128.

(c) *Denying Official.* An individual who denies a request made under 5 U.S.C. 552 for all, or any portion, of a document or material containing DoD UCNI.

(d) *Document or Material.* The physical medium on, or in, which information is recorded, or a product or substance which contains or reveals information, regardless of its physical form or characteristics.

(e) *Information.* Any fact or concept regardless of the physical form or characteristics of the medium on, or in, which it is recorded, contained or revealed.

(f) *Reviewing Official.* An individual who may make a determination that a document or material contains, does not contain, or no longer contains DoD UCNI.

(g) *Safeguards.* An integrated system of physical protection, material accounting, and material control measures designed to deter, prevent, detect, and respond to unauthorized possession, use, or sabotage of DoD SNM, equipment or facilities.

(h) *Special Nuclear Material Facility.* A DoD facility that performs a sensitive function (see paragraph (i) of this section).

(i) *Sensitive Function.* A function in support of atomic energy defense programs whose disruption could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security (see paragraph (a) of this section).

¹Controlled document. Not releasable to the public.

²Requests may be forwarded to U.S. Department of Energy (Forrestal Building), 100 Independence Avenue, SW., Attention: Distribution Office of DOE Publications, Washington, DC 20585.

³Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.