

#### § 223.4

(j) *Special Nuclear Material (SNM)*. Plutonium, uranium enriched in the isotope-233 or in the isotope-235, except source material or any material artificially enriched by any of the foregoing.

(k) *Special Nuclear Material Equipment*. Equipment, systems, or components whose failure or destruction would cause an impact on safeguarding DoD SNM resulting in an unacceptable interruption to a national security program or an unacceptable impact on the health and safety of the public.

(l) *Unauthorized Dissemination*. The intentional or negligent transfer, in any manner and by any person, of information contained in a document or material determined by a reviewing official to contain DoD UCNI, and so marked in accordance with the procedures in appendix A to this part, to any person or entity other than an authorized individual or a person granted special access to specific DoD UCNI under 10 U.S.C. 128.

#### § 223.4 Policy.

It is DoD policy:

(a) To prohibit the unauthorized dissemination of unclassified information on security measures, including security plans, procedures, and equipment for the physical protection of DoD SNM, equipment, or facilities.

(b) That the decision to protect unclassified information as DoD UCNI shall be based on a determination that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by increasing significantly the likelihood of the illegal production of nuclear weapons or the theft, diversion, or sabotage of DoD SNM, equipment, or facilities.

(c) That government information shall be made publicly available to the fullest extent possible by applying the minimum restrictions consistent with the requirements of 10 U.S.C. 128 necessary to protect the health and safety of the public or the common defense and security.

(d) That nothing in this part prevents a determination that information previously determined to be DoD UCNI is

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classified information under applicable standards of classification.

#### § 223.5 Responsibilities.

(a) The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence shall:

(1) Administer the DoD program for controlling DoD UCNI.

(2) Coordinate DoD compliance with the DoE program for controlling DoE UCNI.

(3) Prepare and maintain the reports required by 10 U.S.C. 128.

(b) The Assistant Secretary of Defense (Public Affairs) shall provide guidance to the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C3I)), other elements of the OSD, and the Heads of the DoD Components on the FOIA (5 U.S.C. 552), as implemented in DoD 5400.7-R,<sup>4</sup> as it applies to the DoD UCNI Program.

(c) The Heads of the DoD Components shall:

(1) Implement this part in their DoD Components.

(2) Advise the ASD(C3I) of the following, when information not in the guidelines in appendix B to this part is determined to be DoD UCNI:

(i) Identification of the type of information to be controlled as DoD UCNI. It is not necessary to report each document or numbers of documents.

(ii) Justification for identifying the type of information as DoD UCNI, based on the guidelines in appendix B to this part and prudent application of the adverse effects test.

#### § 223.6 Procedures.

Appendix A to this part outlines the procedures for controlling DoD UCNI. Appendix B to this part provides general and topical guidelines for identifying information that may qualify for protection as DoD UCNI. The procedures and guidelines in appendices A and B to this part complement the DoD Component Programs to protect other DoD-sensitive unclassified information and may be used with them.

<sup>4</sup>See footnote 3 to section 223.2(c).