

ANNOUNCEMENT NO.

DATE: April 14, 2004

TO: ALL NRC Employees

SUBJECT: NO COMMENT POLICY FOR CLASSIFIED AND SENSITIVE UNCLASSIFIED INFORMATION

The purpose of this announcement is to reinforce the policy, procedures, and guidance for NRC personnel and contractors concerning classified and sensitive unclassified information. Such information includes, but is not limited to, government classified information and safeguards information (SGI). This announcement addresses information that (1) is in the public domain, (2) is submitted to NRC for review by individuals not currently authorized to have access to protected information in those areas, or (3) appears in spoken communications such as interviews and speeches.

NRC classified and sensitive unclassified information is normally protected by preventing its dissemination to unauthorized individuals. However, there are occasions when NRC classified or sensitive unclassified information appears without authorization in the public domain. Commenting on such information or attempting to prevent its further dissemination could result in greater damage to the common defense and security and/or national security of the United States than would occur if no comment is made about the information.

Occasionally, statements appear in the public domain containing information that is designated as sensitive unclassified or classified by NRC guidance (e.g., statements in newspapers, publicly available Internet sites, magazines, and books, statements made in speeches, on television, or at open meetings). Please note that any reference to classified or SGI appearing in a specific publicly available source is itself protected as classified or SGI. In addition, the fact that information has appeared publicly does not render the information unclassified or decontrolled. Therefore, the answer to any questions raised about the accuracy, designation or classification, or technical merit of such information should be "no comment" or "the NRC will neither confirm nor deny the presence" of SGI or classified information.

Documents containing speculation in a subject area involving sensitive or classified information by individuals not cleared for access to such information are sometimes submitted by outside entities for unsolicited review by NRC or its contractors. In such cases, no comment shall be made on the accuracy, designation or classification, or technical merit of the documents. It may be explained in the written response, if one is appropriate, that NRC policy does not permit comment on certain categories of information and will neither confirm nor deny the presence of SGI or classified information.

With regard to documents concerning sensitive or classified subject areas submitted by unauthorized individuals for NRC review, evaluations by authorized individuals will be designated or classified at the level and category dictated by the content of the evaluation. Note that no marking relating to designation or classification, or any other kind of comments should be placed on the original document as submitted, because it may need to be returned to the author. Copies should be appropriately marked and the original, if kept, can be stored with an appropriate cover sheet.

The “no comment” policy is hardest to apply in interviews, conversations, speeches, and other oral interactions. If discussions involving sensitive or classified are appropriate, particular care should be taken to avoid compromising protected information. Individuals who expect to be engaged in such discussions should be familiar with classification or designation guidance for the subject area and with the provisions of the “no comment” policy. However, the phrase “no comment” should be avoided if its use implies or reveals classified or sensitive unclassified information.

Occasionally, it may be necessary to comment on portions of a publically available document that contains classified or sensitive unclassified information. The comment may be necessary in the interest of safety, environmental protection, security, or other considerations. In such cases, it must be made absolutely clear that the NRC comment in no way implies an endorsement of the overall accuracy, technical merit, or content of other aspects of the document. If such occasions do arise, the decision to comment shall be made insofar as possible in coordination with other pertinent NRC offices (e.g., OGC, OPA, NSIR) and with due consideration to the possible ramifications of a NRC comment.

This policy applies to various levels of classified information as well as SGI. If there is any doubt as to the appropriate action to take when implementing this policy, the Information Security Section, NSIR should be consulted at 301-415-2212. This policy will be incorporated into final versions of NRC Management Directives 12.2 and 12.6, which are scheduled for publication.

/RA/

Roy P. Zimmerman, Director
Office of Nuclear Security
and Incident Response

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