



DEPARTMENT OF ENERGY

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SECTION 148 OF THE ATOMIC ENERGY ACT
FACT SHEET

In 1980, the Congress amended the Atomic Energy Act of 1954 by adding Section 147 which provided the Nuclear Regulatory Commission (NRC) the authority to prohibit from unauthorized disclosure specified unclassified safeguards information relating to a licensee's or applicant's control and accountability procedures for special nuclear materials, and security measures related to the protection of nuclear materials and vital plant equipment at production and utilization facilities. The NRC regulates and licenses the construction and operation of nuclear reactors and other nuclear facilities in the commercial sector, including ensuring that both the facilities and materials are adequately protected. On the other hand, the Department of Energy (DOE) is charged with the operation of a nationwide program of research, development, testing, and production of the Nation's nuclear weapons. Concomitantly, the DOE produces all the special nuclear materials used in these weapons. Recognizing that the DOE also had vulnerabilities and therefore similar needs with respect to protection of its facilities and activities, the Congress, in December 1981, further amended the Atomic Energy Act by adding Section 148.

Section 148 directs the DOE to protect from unauthorized dissemination certain unclassified information pertaining to:

- o the design of production or utilization facilities;
- o security measures for the physical protection of such facilities, nuclear material contained in these facilities, or nuclear material in transit; or
- o the design, manufacture, or utilization of any atomic weapon or component if the design, manufacture, or utilization of such weapon or component was contained in any information which was declassified from the Restricted Data category.

In revising the 1954 Act to give the NRC and the DOE authority to prohibit dissemination of certain unclassified information, Congress recognized that, in the 1980's, we must be concerned not only with the threat posed by other nuclear powers, but also must be increasingly concerned with small sub-national terrorist organizations or non-nuclear states with access to sophisticated equipment and technology, whose operatives possess a high degree of technical sophistication, motivation, and dedication. The terrorist organizations consist of the types of people who repeatedly have demonstrated a willingness to hijack airplanes, attack foreign embassies, kidnap and murder diplomats, and otherwise accomplish by violence objectives which are contrary to U.S. interests.



Reference

In many cases, material which had been unclassified or declassified prior to the more recent appreciation of the threat from terrorists could be used for very damaging purposes by such groups or individuals. Consequently, Congress felt the Executive Branch needed to reduce its vulnerabilities since the DOE has responsibility for safeguarding plutonium, enriched uranium, and other special nuclear materials which could be diverted or stolen to improvise an illegal dispersal weapon or nuclear device or to sabotage critical nuclear defense facilities. Such an act clearly would have a significant adverse impact upon the public health and safety, as well as the common defense and security of the Nation.

In accordance with the passage of Section 148, the DOE issued proposed regulations on April 1, 1983. These regulations are contained in 10 CFR 1017 -- Identification and Protection of Unclassified Controlled Nuclear Information (UCNI). In summary, the regulations establish several basic principles, as follows:

- o That potential UCNI information be limited to the scope of information relating to the Nation's "atomic energy defense programs";
- o That no information be designated as UCNI prior to review and determination as to the appropriateness of its inclusion as UCNI;
- o That UCNI be designated as such and that no liability be incurred for the innocent dissemination of information which has not been so designated;
- o That all information designated as UCNI meet the significant adverse impact test prescribed in Section 148 a(2), and that specific justification for withholding information be supplied, citing the value of such information to a potential terrorist or other malevolent individuals or groups;
- o That all information not specifically meeting the significant adverse impact test be segregated from information designated as UCNI and released as appropriate;
- o That types of information which may be subject to the provisions of Section 148 be identified;
- o That conditions under which access to UCNI may be granted be identified;
- o That penalties for violations, and the administrative procedures associated with imposition of penalties, be provided.

In summary, Congress recognized the need to keep certain unclassified nuclear information out of the hands of terrorists, cranks, and foreign adversaries. In keeping with the proper oversight role of the Congress, Section 148 requires the DOE to prepare a quarterly report detailing its application and use of the section, including a justification that the information is properly withheld in accordance with Section 148 a(2). The DOE believes such an approach fully recognizes the desirability and the necessity of a proper balance among the roles of the Executive Branch, the Congress, and the citizenry.

Questions concerning Section 148 should be directed to the Classification and Technical Information Division, Albuquerque Operations Office. Contacts are Charles P. Demos, 846-3305 and Donnie H. Martin, 846-3303.