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(2) Such a request must include—

(i) The name, current residence or business address, birthplace, birthdate, and country of citizenship of the person submitting the request;

(ii) A description of the UCNI for which special access is being requested;

(iii) A description of the purpose for which the UCNI is needed; and

(iv) Certification by the requester of his or her understanding of and willingness to abide by these regulations.

(3) The Assistant Secretary for Defense Programs shall base his or her decision to grant special access to UCNI on an evaluation of—

(i) The sensitivity of the UCNI for which special access is being requested (i.e., the worst-case, adverse effect on the health and safety of the public or the common defense and security which would result from illegal use of the UCNI);

(ii) The purpose for which the UCNI is needed (e.g., will the UCNI be used for commercial or other private purposes or will it be used for public benefit to fulfill statutory or regulatory responsibilities);

(iii) The likelihood of unauthorized dissemination by the requester of the UCNI; and

(iv) The likelihood of the requester using the UCNI for illegal purposes.

(4) The Assistant Secretary for Defense Programs shall attempt to notify a person who requests special access to UCNI within 30 days of receipt of the request as to whether or not special access to the requested UCNI is granted. If a final determination on the request cannot be made within 30 days or receipt of the request, the Assistant Secretary for Defense Programs shall notify the requester, within 30 days of the request, as to when the final determination on the request may be made.

(5) A person granted special access to UCNI is not an Authorized Individual under paragraph (a) of this section and shall not further disseminate the UCNI.

(c) *Notification of responsibilities*—(1) *Routine access.* An Authorized Individual granting routine access to UCNI to another person under paragraph (a) of this section shall notify each person granted such access (other than when the person being granted such access is

a Government employee, a member of the U.S. Armed Forces, or an employee of a Government contractor or subcontractor) of applicable regulations and orders concerning UCNI and of any special redistribution limitations that the Authorized Individual determines to apply for the specific UCNI to which routine access is being granted.

(2) *Special access.* The Assistant Secretary for Defense Programs shall notify each person granted special access to UCNI under paragraph (b) of this section of applicable regulations concerning UCNI prior to dissemination of the UCNI to the person.

(d) *Other persons.* Persons not granted routine access to UCNI under paragraph (a) of this section or special access to UCNI under paragraph (b) of this section shall not have access to UCNI.

§ 1017.17 Physical protection requirements.

(a) *General.* UCNI requires protection from unauthorized dissemination. UCNI must be protected and controlled in a manner consistent with that customarily accorded other types of unclassified but sensitive information (e.g., proprietary business information, personnel or medical records of employees, attorney-client information). Each Government agency and Government contractor authorized access to UCNI shall establish and maintain a system for the protection of UCNI in their possession or under their control that is consistent with the physical protection standards established in this section. Each Authorized Individual or person granted special access to UCNI under § 1017.16(b) who receives, acquires, or produces UCNI or a document or material containing UCNI shall take reasonable and prudent steps to ensure that it is protected from unauthorized dissemination by adhering to these regulations and their implementing directives.

(b) *Protection in use or storage.* An Authorized Individual or a person granted special access to UCNI under § 1017.16(b) shall maintain physical control over any document or material containing an UCNI notice that is in use so as to prevent unauthorized access to it.

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When any document or material containing an UCNI notice is not in use, it must be stored in a secure container (e.g., locked desk or file cabinet) or in a location where access is limited (e.g., locked or guarded office, controlled access facility).

(c) *Reproduction.* A document or material containing an UCNI notice may be reproduced to the minimum extent necessary consistent with the need to carry out official duties without permission of the originator, provided the reproduced document or material is marked and protected in the same manner as the original document or materials.

(d) *Destruction.* A document or material containing an UCNI notice may be disposed of by any method which assures sufficiently complete destruction to prevent its retrieval (providing the disposal is authorized by the Archivist of the United States under 41 CFR 101-11.4 and by agency records disposition schedules).

(e) *Transmission.* (1) A document or material containing an UCNI notice must be packaged to prevent disclosure of the presence of UCNI when transmitted by a means which could allow access to the document or material by a person who is not an Authorized Individual or a person granted special access to UCNI under §1017.6(b). The address and return address must be indicated on the outside of the package.

(2) A document or material containing an UCNI notice may be transmitted by—

(i) U.S. first class, express, certified, or registered mail;

(ii) Any means approved for the transmission of classified documents or material;

(iii) An Authorized Individual or a person granted special access to UCNI under §1017.16(b), when he or she can control access to the document or material being transmitted; or

(iv) Any other means determined by the Assistant Secretary for Defense Programs to be sufficiently secure.

(3) UCNI may be discussed or transmitted over an unprotected telephone or telecommunications circuit when required by operational considerations. More secure means of communication should be utilized whenever possible.

(f) *Automated Data Processing (ADP).* UCNI may be processed or produced on any ADP system which is certified for classified information or which complies with the guidelines of Office of Management and Budget Circular No. A-71, "Security of Federal Automated Information Systems" or which has been approved for such use in accordance with the provisions of applicable DOE directives.

§ 1017.18 Violations.

(a) *Civil penalty.* Any person who violates section 148 of the Atomic Energy Act or any regulation or order of the Secretary issued under section 148 of the Atomic Energy Act, including these regulations, is subject to a civil penalty. The Assistant Secretary for Defense Programs may recommend to the Secretary imposition of this civil penalty, which shall not exceed \$110,000 for each violation.

(1) *Written notification.* (i) Whenever the Assistant Secretary for Defense Programs believes that a person is subject to imposition of a civil penalty under the provisions of section 148b(1) of the Atomic Energy Act, the Assistant Secretary for Defense Programs shall notify the person in writing by certified mail, return receipt requested, of—

(A) The date, facts, and nature of each act or omission with which the person is charged;

(B) The particular provision of section 148 of the Atomic Energy Act or its implementing regulations or orders involved in the violation;

(C) Each penalty which the Assistant Secretary for Defense Programs proposes to recommend the Secretary impose and its amount;

(D) The right of the person to submit to the Assistant Secretary for Defense Programs the person's written reply to each of the allegations in the notification letter. The person shall mail or deliver any reply letter within twenty days of receipt of the notification letter from the Assistant Secretary for Defense Programs.

(E) The right of the person to submit to the Assistant Secretary for Defense Programs a written request for a hearing under paragraph (a)(2) of this section.