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accordance with an established agreement with the United States Government, a licensee, certificate holder, or other person subject to this part shall permit the individual (upon presentation of the credentials specified in § 75.7 of this chapter and any other credentials identified in the disclosure authorization) to have access to matter classified as National Security Information that is relevant to the conduct of a visit or inspection. A disclosure authorization under this section does not authorize a licensee, certificate holder, or other person subject to this part to provide access to Restricted Data.

(b) For purposes of this section, classified National Security Information is relevant to the conduct of a visit or inspection if—

(1) In the case of a visit, this information is needed to verify information according to § 75.13 of this chapter; or

(2) In the case of an inspection, an inspector is entitled to have access to the information under § 75.42 of this chapter.

(c) In accordance with the specific disclosure authorization provided by the Division of Nuclear Security, licensees or other persons subject to this part are authorized to release (i.e., transfer possession of) copies of documents that contain classified National Security Information directly to IAEA inspectors and other representatives officially designated to request and receive classified National Security Information documents. These documents must be marked specifically for release to IAEA or other international organizations in accordance with instructions contained in the NRC's disclosure authorization letter. Licensees and other persons subject to this part may also forward these documents through the NRC to the international organization's headquarters in accordance with the NRC disclosure authorization. Licensees and other persons may not reproduce documents containing classified National Security Information except as provided in § 95.43.

(d) Records regarding these visits and inspections must be maintained for 5 years beyond the date of the visit or inspection. These records must specifically identify each document released

to an authorized representative and indicate the date of the release. These records must also identify (in such detail as the Division of Nuclear Security, by letter, may require) the categories of documents that the authorized representative has had access and the date of this access. A licensee or other person subject to this part shall also retain Division of Nuclear Security disclosure authorizations for 5 years beyond the date of any visit or inspection when access to classified information was permitted.

(e) Licensees or other persons subject to this part shall take such measures as may be necessary to preclude access to classified matter by participants of other international agreements unless specifically provided for under the terms of a specific agreement.

[62 FR 17694, Apr. 11, 1997, as amended at 64 FR 15652, Apr. 1, 1999; 68 FR 41222, July 11, 2003]

§ 95.37 Classification and preparation of documents.

(a) Classification. Classified information generated or possessed by a licensee or other person must be appropriately marked. Classified material which is not conducive to markings (e.g., equipment) may be exempt from this requirement. These exemptions are subject to the approval of the CSA on a case-by-case basis. If a person or facility generates or possesses information that is believed to be classified based on guidance provided by the NRC or by derivation from classified documents, but which no authorized classifier has determined to be classified, the information must be protected and marked with the appropriate classification markings pending review and signature of an NRC authorized classifier. This information shall be protected as classified information pending final determination.

(b) Classification consistent with content. Each document containing classified information shall be classified Secret or Confidential according to its content. NRC licensees or others subject to the requirements of 10 CFR Part 95 may not make original classification decisions.

(c) Markings required on face of documents.

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(1) For derivative classification of classified National Security Information:

(i) Derivative classifications of classified National Security Information must contain the identity of the source document or the classification guide, including the agency and office of origin, on the "Derived From" line and its classification date. If more than one source is cited, the "Derived From" line should indicate "Multiple Sources." The derivative classifier shall maintain the identification of each source with the file or record copy of the derivatively classified document.

(ii) Declassification instructions. When marking derivatively classified documents, the "DECLASSIFY ON" line must carry forward the declassification instructions as reflected in the original document. If multiple sources are used, the instructions will carry forward the longest duration.

(iii) An example of the marking stamp is as follows:

Derived from _____
(Source/Date)
Reason: _____
Declassify On: _____
(Date/Event/Exemption)
Classifier: _____
(Name/Title/Number)

(2) For Restricted Data documents:

(i) Identity of the classifier. The identity of the classifier must be shown by completion of the "Derivative Classifier" line. The "Derivative Classifier" line must show the name of the person classifying the document and the basis for the classification. Dates for downgrading or declassification do not apply.

(ii) Classification designation (e.g., Secret, Confidential) and Restricted Data. NOTE: No "Declassification" instructions will be placed on documents containing Restricted Data.

(d) Placement of markings. The highest classification marking assigned to a document must be placed in a conspicuous fashion in letters at the top and bottom of the outside of the front covers and title pages, if any, and first and last pages on which text appears, on both bound and unbound documents, and on the outside of back covers of bound documents. The balance of the

pages must be marked at the top and bottom with:

(1) The overall classification marking assigned to the document;

(2) The highest classification marking required by content of the page; or

(3) The marking UNCLASSIFIED if they have no classified content.

(e) Additional markings.

(1) If the document contains any form of Restricted Data, it must bear the appropriate marking on the first page of text, on the front cover and title page, if any. For example: "This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Unauthorized disclosure subject to Administrative and Criminal Sanctions."

(2) Limitation on reproduction or dissemination. If the originator or classifier determines that reproduction or further dissemination of a document should be restricted, the following additional wording may be placed on the face of the document:

Reproduction or Further Dissemination Requires Approval of _____

If any portion of this additional marking does not apply, it should be crossed out.

(f) Portion markings. In addition to the information required on the face of the document, each classified document is required, by marking or other means, to indicate clearly which portions are classified (e.g., paragraphs or pages) and which portions are not classified. The symbols (S) for Secret, (C) for Confidential, (U) for Unclassified, or (RD) for Restricted Data may be used immediately preceding or following the text to which it applies, except that the designation must follow titles or subjects. (Portion marking of paragraphs is not required for documents containing Restricted Data.) If this type of portion marking is not practicable, the document must contain a description sufficient to identify the classified information and the unclassified information.

Example

Pages 1-3 Secret
Pages 4-19 Unclassified
Pages 20-26 Secret
Pages 27-32 Confidential

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(g) Transmittal document. If a document transmitting classified information contains no classified information or the classification level of the transmittal document is not as high as the highest classification level of its enclosures, then the document must be marked at the top and bottom with a classification at least as high as its highest classified enclosure. The classification may be higher if the enclosures, when combined, warrant a higher classification than any individual enclosure. When the contents of the transmittal document warrants a lower classification than the highest classified enclosure(s) or combination of enclosures or requires no classification, a stamp or marking such as the following must also be used on the transmittal document:

UPON REMOVAL OF ATTACHMENTS
THIS DOCUMENT IS:

(Classification level of transmittal document standing alone or the word "UNCLASSIFIED" if the transmittal document contains no classified information.)

(h) Classification challenges. Persons in authorized possession of classified National Security Information who in good faith believe that the information's classification status (i.e. that the document), is classified at either too high a level for its content (overclassification) or too low for its content (underclassification) are expected to challenge its classification status. Persons who wish to challenge a classification status shall—

(1) Refer the document or information to the originator or to an authorized NRC classifier for review. The authorized classifier shall review the document and render a written classification decision to the holder of the information.

(2) In the event of a question regarding classification review, the holder of the information or the authorized classifier shall consult the NRC Division of Facilities and Security, Information Security Branch, for assistance.

(3) Persons who challenge classification decisions have the right to appeal the classification decision to the Interagency Security Classification Appeals Panel.

(4) Persons seeking to challenge the classification of information will not be the subject of retribution.

(i) Files, folders or group of documents. Files, folders, binders, or groups of physically connected documents must be marked at least as high as the highest classified document which they contain.

(j) Drafts and working papers. Drafts of documents and working papers which contain, or which are believed to contain, classified information must be marked as classified information.

(k) Classification guidance. Licensees, certificate holders, or other persons subject to this part shall classify and mark classified matter as National Security Information or Restricted Data, as appropriate, in accordance with classification guidance provided by the NRC as part of the facility clearance process.

[62 FR 17695, Apr. 11, 1997, as amended at 64 FR 15652, Apr. 1, 1999; 68 FR 41222, July 11, 2003]

§ 95.39 External transmission of documents and material.

(a) Restrictions. Documents and material containing classified information received or originated in connection with an NRC license or certificate must be transmitted only to CSA approved security facilities.

(b) Preparation of documents. Documents containing classified information must be prepared in accordance with the following when transmitted outside an individual installation.

(1) The documents must be enclosed in two sealed opaque envelopes or wrappers.

(2) The inner envelope or wrapper must contain the addressee's classified mail address and the name of the intended recipient. The appropriate classification must be placed on both sides of the envelope (top and bottom) and the additional markings, as appropriate, referred to in §95.37(e) must be placed on the side bearing the address.

(3) The outer envelope or wrapper must contain the addressee's classified mailing address. The outer envelope or wrapper may not contain any classification, additional marking or other