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- (Page 17) Civil penalty of up to \$150,000
- Criminal penalty of:
 - 2 Years (without intent to harm the Nation)
 - 20 Years (with intent to harm the Nation)

EO11: IDENTIFY PROTECTION AND CONTROL PROCEDURES FOR CONTROLLED UNCLASSIFIED INFORMATION

Controlled Unclassified Information (CUI)

CUI is information for which disclosure, loss, misuse, alteration, or destruction could adversely affect national security or governmental interests, commercial interests, or personal privacy. CUI is broadly defined as unclassified information that may be exempt from public release under the Freedom of Information Act (FOIA).

At CNS there are two types of CUI:

1. Official Use Only (OUO):

Certain unclassified information that meets the following two criteria:

- a. Damage. In the opinion of the person making the determination, the information has the potential to damage governmental, commercial, or private interests if released to persons who do not need it to do their jobs or other DOE-authorized activity.
- b. Potentially falls under a Freedom of Information Act (FOIA) Exemption: In the opinion of the person making the determination, the information may fall under at least one of the FOIA exemptions (3-9).

OUO includes the following:

- Personally Identifiable Information (PII)
- Privacy Act Information
- Proprietary Information
- Export Controlled Information
- Patent Information
- Sensitive Nuclear Technology
- Applied Technology
- Source Selection Technology

When must a document be reviewed for OUO?

An unclassified document originated within a program element must be evaluated to determine whether it contains OUO information:

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- If the originator believes the document contains sensitive information, it should be reviewed prior to being finalized, released by the originator outside of the activity or office, or filed.
- Documents originated prior to April 9, 2003, (when the OUO program was established) must be reviewed if they are going to be publicly released if the possessor believes there is a potential for the document to contain sensitive information.

Who has authority to identify OUO?

- Any employee, Federal or contractor, from an office with cognizance over the information may make OUO determinations for unclassified documents
 - Originated within his/her office
 - Produced for his/her office
 - Under the control of his/her office
 - No special authority or designation is required
 - Training is not required, but is highly recommended
 - Some Program Offices may have additional requirements (training, specific personnel to make determinations, etc.)\

OUO and the FOIA Exemptions

Exemption 3-Statutory Exemption

- Disclosure of information is prohibited by statute
- Not OUO if information is otherwise classified or controlled (e.g., RD, FRD, TFNI, UCNI)

Examples of Exemption 3

- **Espionage Act**-Information pertaining to communication intelligence and cryptographic devices
- **National Security Act of 1947**-Intelligence sources and methods
- **Internal Revenue Code**-Taxpayer Identification numbers

Exemption 4-Commercial/Proprietary

- Trade Secrets
- Commercial or financial information whose release would:
 - Impair the Government's ability to obtain information in the future, or
 - Cause competitive harm to submitter

Examples of Exemption 4

- Trade Secret Information (e.g. Coca-Cola formula)
- Financial Information, such as income, profits, losses, costs

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- Contract proposal, solicited or unsolicited
- Customer/supplier lists
- Government credit card numbers
- Security measures for commercial entities performing work for the Government

Exemption 5-Privileged Information

Three primary privileges:

- Deliberative process (a.k.a. “prior to decision”)
- Attorney-Work Product
- Attorney-Client

Examples of Exemption 5

- Documents concerning budget cuts
- Documents concerning cancellation of a program
- Documents concerning DOE property purchases

Exemption 6-Personal Privacy

- Constitutes a “clearly unwarranted invasion of personal privacy”
- Personal information that might cause distress or embarrassment or risk identity theft

Examples of Exemption 6

- Personally Identifiable Information (PII)
Examples (when associated with an individual)
 - Social security number (even when not associated with an individual)
 - Place/Date of Birth
 - Mother’s maiden name
 - Medical history
 - Financial history

Exemption 7-Law Enforcement

Includes but is not limited to:

- Information whose release could reasonably be expected to endanger the life or physical safety of any individual or
- Information would disclose techniques and procedures for law enforcement investigations or prosecutions

Examples of Exemption 7

- Investigative Information
- Civil, criminal investigations

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- Personnel investigations
- National Security/Terrorism investigations
- Security measures to protect Federal officials
- Security measures to protect Federal buildings
- Security manuals
- Classification guides

Exemption 8-Financial Institutions

- Evaluations of a financial institution’s stability prepared by, on behalf of, or for use of an agency responsible for regulation of financial institutions (FDIC, etc.)

Exemption 9-Wells

- Technical and scientific information about any type of well

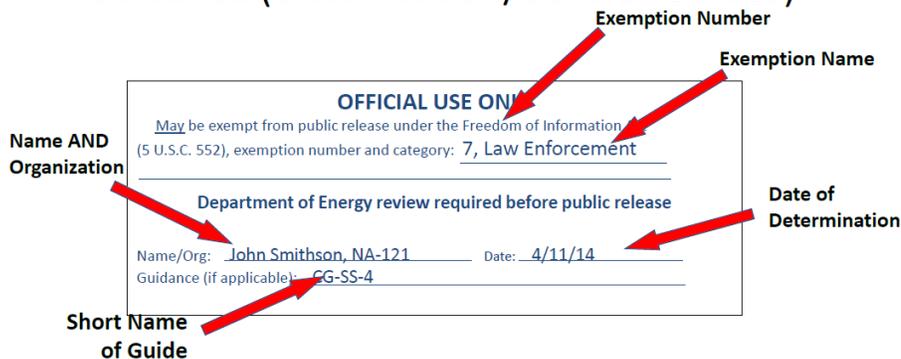
Examples of Exemption 9

- Geothermal well BTU production
- Ground water inventories and well yields in gallons per minute
- Natural gas reserves

How is OUO Marked?

Front Marking-Determination Based on Guidance (Classification/Control Guides)

Front Marking – Determination based on
 Guidance (Classification/Control Guides)



Markings are for example purposes only

Page Marking

OFFICIAL USE ONLY:

- On bottom of ALL pages OR

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- On bottom of only those pages containing OUO information.



Mandatory Supplemental Markings

- Markings required by law, regulation, or other DOE directives that convey additional advice on handling or access restrictions
- Used in addition to, not in place of OUO markings (both types of markings must appear on the document)
- OUO Markings ensure consistent protection and handling throughout DOE

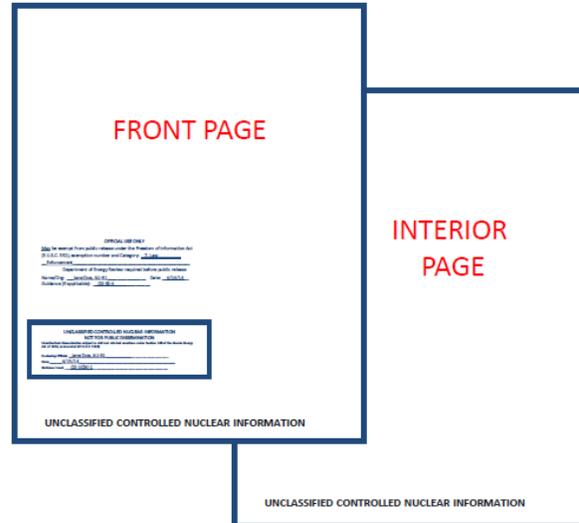
Examples of information with supplemental markings:

- Protected Cooperative Research and Development Agreements (CRADA) information
- Export Controlled Information
- Applied Technology Information
- Source Selection Information

**SAMPLE OF OUO DOCUMENT WITH SUPPLEMENTAL MARKING
(CRADA)**

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- Apply OUO front marking to a document containing both OUO and UCNI to alert holder to the presence of OUO information
- For interior pages may use the highest category of information in the document (UCNI) on every page or the actual category of information (UCNI or OUO) found on each page



Markings are for example purposes only

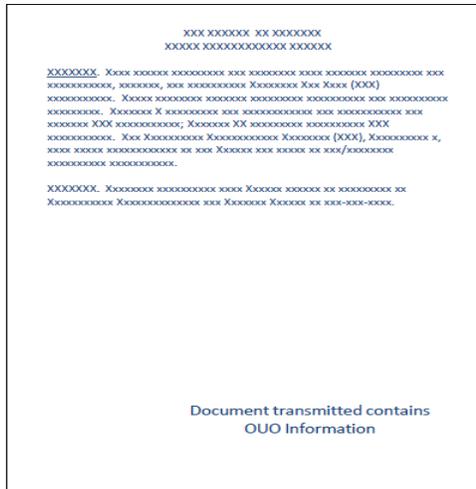
HOW IS A DOCUMENT TRANSMITTING OUO MARKED?

Document transmitted
contains OUO information

- Required if transmittal document itself does not contain classified or controlled information
- Calls attention to presence of OUO information in attachment

SAMPLE MARKING OF DOCUMENT TRANSMITTING OUO:

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Attachment contains
OUO; transmitting
document does not
contain classified or
controlled information

HOW IS AN e-mail CONTAINING OUO MARKED?

- First line of message
 - Insert “OUO” before text
 - If attachment to message is OUO:
 - Message must indicate attachment contains OUO
 - Attachment must be marked correctly

HOW IS OUO PROTECTED?

Who may have access to OUO?

- Anyone needing the information to perform his/her job or other DOE-authorized activity
 - No security clearance required
 - Not limited to DOE employees
 - No requirement for U.S. citizenship
- Some OUO may have additional restrictions (Export Controlled Information, Source Selection Information, etc.)
- Determination made by **person possessing** document-**not person wanting** the document

In-Use

- Take reasonable precautions to prevent access by persons who don’t need the information to do their jobs.
- For example, don’t read an OUO document in a public place.

Storing OUO

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- With internal building security during non-duty hours-unlocked file cabinet, desk, briefcase, etc.
- No internal building security during non-duty hours-locked room or locked file cabinet, desk, briefcase, etc.

Copying OUO

- No permission from originator needed
- Make minimum number of copies
- Make sure copies are marked and protected

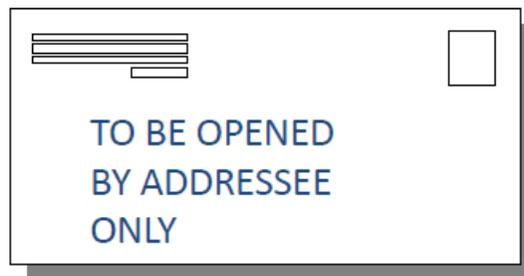
Destruction of OUO

- Strip-cut shredder with strips no more than ¼ inch wide and 2 inches long
- May also use method approved for classified
- Any other method approved by Classification Office

Transmission of OUO

Transmitting by mail-Inside Facility

- Place in sealed, opaque envelope or wrapping with recipients address and “TO BE OPENED BY ADDRESSEE ONLY” on outside



Transmitting by Mail-Outside Facility

- Place in sealed, opaque envelope or wrapping with recipient’s address, return address, and “TO BE OPENED BY ADDRESSEE ONLY” on outside (same requirements as inside facility, but must include return address)
- U.S. mail-First Class, Express, Certified, Registered
- Any commercial carrier

Transmitting by Hand, Between Facilities or Within a Facility

- May be hand-carried

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- Must control access to document

Transmission by Fax or e-Mail

- Use encryption methods (e.g., Entrust) whenever possible
- Emailing OUO outside of the CNS firewall WITHOUT encryption will result in an Incident of Security Concern (IOSC)

Transmission over Voice Circuits

- Use encryption when possible
- If unavailable and other encrypted means are not a feasible alternative, regular voice circuits allowed

Penalties for Misuse of OUO

Penalties may be imposed if individual:

- Intentionally releases OUO information from document marked OUO
- Intentionally or negligently releases OUO document
- Intentionally does not mark a document known to contain OUO information
- Intentionally marks a document OUO known not to contain OUO information

Examples of Penalties

- Verbal admonishment
- Written reprimand
- Suspension
- Termination

Where Can You Obtain Additional Information About OUO?

- DOE O 471.3, Administrative Change 1
- DOE Manual 471.3-1, Administrative Change 1

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2. **Unclassified Controlled Nuclear Information:** Certain unclassified design and security information concerning nuclear facilities, material, and weapons that can be controlled under section 148 of the Atomic Energy Act.

Why Is UCNI Controlled?

Because its release would significantly increase the likelihood of the illegal production of a nuclear weapon or the theft, diversion, or sabotage of nuclear material, equipment, or facilities.

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What Information Could be UCNI?

- Unclassified Government information that concerns atomic energy defense programs
- Three subject areas:
 - Design of production or utilization facilities
 - Security measures for the physical protection of production or utilization facilities or nuclear material contained in these facilities or in transit
 - Declassified RD

What are Your Responsibilities for UCNI? All CNS employees and non-employees have a responsibility to protect the confidentiality of personal and other sensitive information from unauthorized disclosures and intentional or negligent misuse.

CNS employees and non-employees with access to UCNI:

- Must refer documents that may require UCNI to an UCNI Reviewing Official with appropriate authority
- Must protect UCNI in accordance with 10 CFR 1017, DOE directives and CNS policies and procedures

How Do You Know if a Document Should Be Reviewed for UCNI?

If the document is an UCNI subject area, it may contain UCNI.

What Are UCNI Subject Areas?

- Safeguard & Security
- Arms Control & Verification
- Intra-Site Secure Transport Vehicle
- Transportation Safeguards and Security
- Radiological Emergency Response
- High Explosives in Nuclear Weapons
- Nuclear Nonproliferation
- Uranium Atomic Vapor Laser Isotope Separation (AVLIS)
- Plutonium AVLIS
- Gaseous Diffusion
- Plutonium Processing

What If You Are Not Sure if a Document May Contain UCNI?

If you are not sure if a document may contain UCNI, contact:

- An UCNI Reviewing Official

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- Your Supervisor
- Your Program Classification Officer (PCO) or Classification Representative

How Do You Identify a Document That Contains UCNI?

If a determination has been made that a document contains UCNI, it will have page markings and an UCNI front marking

UCNI Front Page Marking

UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION NOT FOR PUBLIC DISSEMINATION
Unauthorized dissemination subject to civil and criminal sanctions under Section 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2168).
Reviewing Official: _____
Date: _____ (Name/Organization)
Guidance Used: _____

UCNI PAGE MARKINGS (EXMPLE PURPOSES ONLY)

The following markings will be located on the bottom of the page and on the back cover
(Reference 1017.16(a) (1) and (2))

UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION

UCNI

(only if space is limited)

SAMPLE DOCUMENT CONTAINING UCNI

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DEPARTMENT OF ENERGY
Washington, D.C. 20585

This is a sample of the front page of a document with the required UCNI markings:

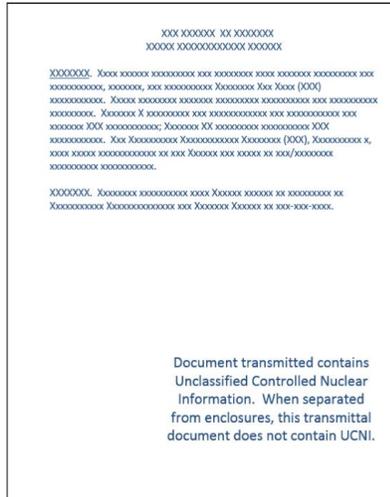
1. The words "Unclassified Controlled Nuclear Information" are on the bottom of the first page.
2. The front marking, which identifies the Reviewing Official with his or her organization, the date the UCNI determination was made, and the guidance used to make the determination, is on front of the document.

UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION
NOT FOR PUBLIC DISSEMINATION
Unauthorized dissemination is prohibited and may constitute
violation under section 185 of the Atomic Energy Act of 1954,
as amended (42 U.S.C. 2165).
Reviewing Official: John Smith, CT&I
Date of Determination: 02/28/08
Guidance Used: CS-2001

UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION

SAMPLE UNCLASSIFIED DOCUMENT TRANSMITTING UCNI

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- Attachment instructions are placed on the transmittal
- Calls attention to the presence of UCNI in the attachment and indicates how the transmittal is handled when separated from the attachment

SAMPLE Email CONTAINING UCNI

First line will have “UCNI” and Reviewing Official’s name and organization, and guidance used to make the determination.

From: Martinez, Paul
Sent: Friday, June 5, 2009 3:15 PM
To: Puits, Clair
Cc:
Subject: UCNI Markings on E-Mail Messages
Attachments:

UCNI; Paul Martinez, CTI-61; CG-PUN-1 – When the e-mail contains UCNI, the first line must have this information.

What Markings Does a Document Have to indicate it No Longer Contains UCNI?

- A Reviewing Official may determine, based on guidance, that an unclassified document or material marked as containing UCNI no longer contains UCNI.
- In such as case, the Reviewing Official:
 - Ensures that all UCNI markings are removed or crossed out and
 - The front of the document or material is marked with :

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<p>DOES NOT CONTAIN UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION Reviewing/Denying Official: <u>Michael Kieszowski, CTI-61</u> (Name/Organization) Date: <u>4/30/16</u></p>
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Access to UCNI

Who Can Have Access to UCNI?

Routine Access

- Authorized person
 - No security clearance required
 - Must meet criteria in 10 CFR 1017, Subpart D
- Need to Know

Who Can Have Routine Access to UCNI?

- **U.S. Citizens**
 - Federal Government (military or civilian) employee
 - Employee of a Federal Government contractor or subcontractor
 - Employee of state, local, and tribal governments
 - Emergency Responders
 - Government Consultant
- **Non-U.S. Citizens**
 - Federal Government (military or civilian employee)
 - Employee of a Federal Government Contractor or subcontractor
 - Employee of state, local and tribal governments
 - Persons who need to know the UCNI in conjunction with activity approved by the DOE Program Secretarial Officer or NNSA Deputy or Associate Administrator with cognizance of the UCNI.
 - For others, refer to 10 CFR 1017, Subpart D

If They Do Not Meet the Criteria For Routine Access, Can an Individual Have Access to UCNI?
Maybe.

- Check **ALL** criteria in Subpart D of 10 CFR 1017 to verify they do not meet the criteria for routine access
- If they not meet the criteria for routine access, they may be eligible for limited access.
- **For limited access:**
 - Must have a need to know the information

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- Must submit a request for limited access to the appropriate approving authority in accordance with 1017.21
- Further dissemination is not permitted

Limited Access

This type of access is for persons not eligible for Routine Access.

How is UCNI Stored?

- Must be stored to preclude unauthorized disclosure
- When not in use, documents or material containing UCNI must be:
 - Stored in a locked receptacle (e.g., file cabinet, desk drawer) or
 - If in a secured area or facility, in a manner that would prevent inadvertent access by an unauthorized individual

How are Documents Containing UCNI Transmitted?

- A document or material marked as containing UCNI may be transmitted by:
 - U.S. First Class, Express, Certified or Registered Mail
 - Any means approved for transmission of classified documents or material
 - An authorized individual or person granted limited access as long as physical control of the package is maintained
 - Internal mail services
- The document or material must be packaged to conceal the presence of the UCNI from someone who is not authorized access. A single, opaque envelope or wrapping is sufficient for this purpose.
- The address of the recipient and the sender must be indicated on the outside of the envelope or wrapping along with the words "TO BE OPENED BY ADDRESSEE ONLY"
- **Encryption is REQUIRED over telecommunication circuits (e.g. e-mail, telephone, fax, internet)**

Are There Limits to Copying Documents Containing UCNI?

- Minimum extent necessary
- Originator permission NOT required
- Ensure UCNI markings are on all copies

How IS UCNI Disposed Of?

- Plain brown burn bags
- Cross-cut shredder that produces particles no larger than ¼ inch wide and 2 inches long
- Any classified method of destruction
- Sensitive Unclassified Data Boxes (Pantex)

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DO NOT DISPOSE OF UCNI IN RECYCLE BINS OR OFFICE TRASH CANS!

What Are the Penalties for Infractions and Violations?

Infractions:

- Administrative Penalty

Violations:

- Civil penalty of up to \$150,000
- Criminal penalty of:
 - 2 Years (without intent to harm the Nation)
 - 20 Years (with intent to harm the Nation)

If You Have Questions About UCNI, Refer to:

- 10 CFR Part 1017, *Identification and Protection of Unclassified Controlled Nuclear Information*, Revision Effective 12/08/08
- DOE O 471.1B, *Identification and Protection of Unclassified Controlled Nuclear Information*
- CNS Classification Office:
 - 865.576.0134 (Y-12)
 - (806)477.6152 (Pantex)
- CNS Controlled Unclassified Information Point of Contacts:
 - Prescott Griggs (Y-12) 865.574.4891
 - Blake Villanueva (Pantex) 806.477.5291
- Your Classification Representative
- DOE Office of Classification Outreach 301.903.7567 or outreach@hq.doe.gov