

May 5, 1998

DP-82:Marciante

OPENNESS ON MATERIALS ON PLANT SITE

All ORO Employees

The mere presence of some materials at sensitive DOE sites has been classified because certain critical classified information about a plant's operation would have been revealed.

The Fundamental Review of DOE Classification Policy is complete, and one of the primary recommendations was that the acknowledgment of the mere presence of all materials at a designated plant site should be unclassified without elaboration (for example: the 3.5 by 0.5 mile expanse that is the Y-12 Plant or the whole of the East Tennessee Technology Park [ETTP] are each defined in classification guidance as "plant sites".) In contrast, a subset of these sites, e.g., the environmental restoration of a particular waste site or building is not a "plant site" as defined by the guidance. In a narrower context certain additional restrictions may apply. What has now been declassified is only, repeat only the ability to acknowledge simple individual materials, namely individual elements, compounds, isotopes, and alloys in the scientific sense, "at the plant site level" without any further elaboration. For many of these now knowledgeable materials, certain of their characteristics, e.g., their particle morphology, etc. remain classified even at the site level. Therefore, for some materials it will only be literally just the words, "Substance x can be found at Y-12," that is now declassified. Also, since some of these materials' characteristics are per-se classified (e.g. morphology) they cannot be physically handed over to people without following DOE security requirements. In addition, overt acknowledgment of certain "engineered mixtures," composites, and manufactured structures (e.g., the ultimate makeup of the gas centrifuge machines) will remain classified even at the site level. Only the revised classification guidance that has been issued provides the authority to now allow the acknowledgment of the declassified materials at the plant site level without elaboration as unclassified. The revisions are narrowly defined and must be used carefully. As always, failure to abide by classification policy and guidance can result in a security infraction or other security actions. Check with your authorized derivative classifier (ADC) or this office before attempting to write an unclassified memo or have an unsecure discussion to fully understand the changes, or have your Lockheed Martin or Bechtel Jacobs Company contact refer the question

to the Lockheed Martin classification function. BNFL, Inc. has its own classification function that ultimately reports to me. Finally, many of these now declassified materials may be Export Controlled. DOE controls their sale and final disposition.

This policy change was announced as part of the December 22, 1997 Secretarial Openness Press Conference and is reflected in the DOE Classification Policy Regulation, 10 CFR 1045, "Nuclear Classification and Declassification" which was signed the same day. This regulation contains sanctions at Section 1045.5 for civil servants and government contractors for knowing, willful, or negligent action that either underclassifies documents or that overclassifies documents. Section 1045.13(f) prohibits the classification of information in order to "Prevent[ion] or delay the release of information bearing solely on the physical environment or public or worker health and safety." (Underlining added). As noted in the examples below, it will be up to you to contact ADCs and full time classification office professionals to ask for assistance in properly interpreting the word "solely" that is referenced in the Regulation.

The driver for this policy change is the need to convey basic, simple environmental, safety, and health (ES&H) information relating to workers and the environment in unclassified terms. A particular significance of this policy change is that all employees (past or present) will be able to communicate to their doctor about the presence of any simple material with which they were involved during a working career at a DOE site at the "site level" without further elaboration. It also means that when DOE or its contractors are preparing ES&H Studies and/or fulfilling the requirement to complete a report, that all materials may be listed which are resident on a site. However, in relation to this paragraph, certain "engineered mixtures" and composites will remain classified even at the site level.

PLEASE NOTE VERY WELL, there continue to be classification restrictions on the details of the use, form, inventories, and many other aspects of many materials at our sites. Why a material was used, how it was used, where in a nuclear weapon it is used, use in specified or unspecified nuclear weapons, use in the uranium enrichment enterprise, current or past material inventories, production and consumption rates, material characteristics (size, shape, etc.) the particular industrial process or even the building or room of use, etc. will remain classified per current guidance.

SOME HYPOTHETICAL EXAMPLES;

For documents that only say:

"Industrial hygiene sampling data for Jill/John indicate substance X at Y-12," will likely be an unclassified statement.

This sentence talks about a simple substance at the site level. However, initially, check with your ADC or this office as necessary to insure your proper understanding.

BUT:

"Industrial hygiene sampling data for Jill/John indicate substance X while they worked in building Y-ABCD," may still be classified. Because a building or room may be so identifiable with a certain unit operation or technology, and if that unit operation or room or technology has a classified substance aspect, then this combination of facts may have to be classified. Check with your ADC or this office as necessary to insure your proper understanding of what is classified or unclassified about your proposed statements.

OR:

"Industrial hygiene sampling data for Jill/John indicate substance X while they worked on Bxx warheads," may still be classified. This is because most nuclear weapon-type specific information is classified. Much information about weapons in general is still classified as well. Check with your ADC or this office as necessary to insure your proper understanding of what is classified or unclassified about your proposed statements.

OR:

"Industrial hygiene sampling data for Jill/John indicate substance X while they worked on enriching uranium" may still be classified. There will be continued constraints on identifying certain substances with certain enriching technologies (e.g., AVLIS, centrifuge, diffusion, plasma separation, etc.). Check with your ADC or this office as necessary to insure your proper understanding of what is classified or unclassified about your proposed statements.

OR:

"In 1956, the inventory of substance X at Y-12 was pdq tones" may still be classified. Check with your ADC or this office as necessary to insure your proper understanding of what is classified or unclassified about your proposed statements.

OR:

Jill Jones, DOE project manager for ETP building LMNOP, is planning for its free release. Since this building might be contaminated with a classified substance, Jill needs to consult with the ORO Safeguards and Security Division to learn about the process for cleaning up the building for non-secure use.

Therefore, the presentation of ES&H information, combined with classified information in the same document, legal proceeding, press release, environmental restoration activity, etc. will continue to require classification of the document, restoration activity, etc. However, as detailed below, future documents that present ES&H information should be produced with the earnest goal of leaving out any classified (or Unclassified Controlled Nuclear [UCNI] or Export Controlled) information so that the ES&H information can be disseminated on unclassified paper or discussed in a non-secure environment. See 10 Code of Federal Regulations, section 1045.41 for your legal obligations in this regard. 10 CFR 1045 can be viewed on the Internet at:

<http://www.doe.gov/html/osti/opennet/finreg.html>.

If in your document preparation, environmental restoration activity, legal proceeding, etc. you need to proceed beyond the mere mention of a simple material at "the site level," you should contact your Division ADC or call the Classification Office at 576-0754. I recommend great care as we adjust to the new rules. Besides resulting in personal security infractions (or worse), classification errors require a great deal of time and money to "clean up." Cleaning up your computer, associated networks, etc. may result in shut down of your office. If there is any doubt about what is classified please call me. The Contracting Technical Officers, (COR), grant administrators, etc. of non-Lockheed Martin contractors, grantees, etc. with classified information access are requested to forward this memo to their contractors, grantees, and other persons with whom they have a "business" relationship who hold clearances, so that such personnel will understand the new policy.

In general, it should be increasingly rare that any pure ES&H data becomes "locked up" and unaccessible to the public in a classified document. After review as appropriate by an ADC or full time classification professional, single documents that only present simple work place industrial hygiene or health physics, air sampling data, etc. at "the site level" will not be classified for individual named personnel. Please keep in mind that oftentimes, if data presentations are configured in a skillful manner, classification can be avoided if certain associations are not made. We should all strive in our presentations of ES&H data in new documents to put them in an unclassified main body. Any classified data necessary to the presentation should be relegated to a classified appendix, attachment, etc. For older documents, intelligent use of extracts, transposing data to new documents, or creation of unclassified summaries may allow release of ES&H data that may be "locked up" in an older document that for legitimate reasons may have to stay classified. Generation of extracts, etc. from older classified documents should be done under the guidance of a DOE or contractor classification office! Input from professional ES&H staff may be important too. See me for assistance as necessary. Also, as civil servants, we should feel comfortable in

asking why our contractors are classifying ES&H information and refer any uncertainties to me. Finally, keep in mind that DOE orders require that whenever a document is created for public release or widespread distribution within DOE that relates to a subject area with classification implications, it is required to have it reviewed by a classification office. The review of a part time (that is your division) ADC is not sufficient.

Those persons who are responsible for release of ES&H information through modalities such as FOIA, Privacy Act, OSHA Right-to-Know at the civil servant level and contractor level should do their utmost, within constraints of law and DOE policy, to release as much ES&H information as possible. In ORO a committee has been formed of classification, health protection, industrial relations, and other personnel to formulate an "outreach program" to current and former workers to advise them of the substances which they can now acknowledge "at the site level" as unclassified. Please contact me if you have interest in this matter, or if you are aware of persons who are seeking such information.

Finally, also keep in mind that even after all of the Fundamental Classification Policy Review is implemented, thousands and thousands of facts about nuclear weapons, uranium enrichment, and other technologies relating to DOE business will remain classified for many years to come. Classification considerations apply at Y-12, ETTP, Portsmouth and Paducah, and even the Oak Ridge National Laboratory. This information will mostly center on design, engineering, fabrication, assembly, material inventory, weapon stockpile, and other aspects of these technologies. All iota's of information that were classified before December 22, 1997, remain classified unless and until classification guides are changed. This will be necessary to protect national security and to prevent nuclear proliferation. As always, if you have or had a clearance, before you convey information about our nuclear technologies in a non-secure venue, make sure that you positively know that the information and combination of associated facts is not classified. When in doubt, contact an authorized derivative classifier or this office. I can be reached at (423) 576-0754.

Gabe Marciante
ORO Classification Officer

cc:

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