

hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 6th day of June, 2003.

For the Nuclear Regulatory Commission

**Margaret V. Federline,**

*Deputy Director, Office of Nuclear Material Safety and Safeguards.*

Attachments 1 and 2—Redacted  
Attachment 3—Modified Handling  
Requirements for the Protection of  
Certain Safeguards Information (SGI-M)

### General Requirement

Information and material that the U.S. Nuclear Regulatory Commission (NRC) determines are safeguards information must be protected from unauthorized disclosure. In order to distinguish information needing modified protection requirements from the safeguards information for reactors and fuel cycle facilities that require a higher level of protection, the term "Safeguards Information-Modified Handling" (SGI-M) is being used as the distinguishing marking for certain materials licensees. Each person who produces, receives, or acquires SGI-M shall ensure that it is protected against unauthorized disclosure. To meet this requirement, licensees and persons shall establish and maintain an information protection system that includes the measures specified below. Information protection procedures employed by state and local police forces are deemed to meet these requirements.

### Persons Subject to These Requirements

Any person, whether or not a licensee of the NRC, who produces, receives, or acquires SGI-M is subject to the requirements (and sanctions) of this document. Firms and their employees that supply services or equipment to materials licensees would fall under this requirement if they possess facility SGI-M. A licensee must inform contractors and suppliers of the existence of these requirements and the need for proper protection. (See more under Conditions for Access.)

State or local police units who have access to SGI-M are also subject to these requirements. However, these organizations are deemed to have adequate information protection

systems. The conditions for transfer of information to a third party, *i.e.*, need-to-know, would still apply to the police organization as would sanctions for unlawful disclosure. Again, it would be prudent for licensees who have arrangements with local police to advise them of the existence of these requirements.

### Criminal and Civil Sanctions

The Atomic Energy Act of 1954, as amended, explicitly provides that any person, "whether or not a licensee of the Commission, who violates any regulations adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act." Section 147a. of the Act. Furthermore, willful violation of any regulation or order governing safeguards information is a felony subject to criminal penalties in the form of fines or imprisonment, or both. (See sections 147b. and 223 of the Act.)

### Conditions for Access

Access to SGI-M beyond the initial recipients of the order will be governed by the background check requirements imposed by the order. Access to SGI-M by licensee employees, agents, or contractors must include both an appropriate need-to-know determination by the licensee, as well as a determination concerning the trustworthiness of individuals having access to the information. Employees of an organization affiliated with the licensee's company, *e.g.*, a parent company, may be considered as employees of the licensee for access purposes.

### Need-to-Know

Need-to-know is defined as a determination by a person having responsibility for protecting SGI-M that a proposed recipient's access to SGI-M is necessary in the performance of official, contractual, or licensee duties of employment. The recipient should be made aware that the information is SGI-M and those having access to it are subject to these requirements as well as criminal and civil sanctions for mishandling the information.

### Occupational Groups

Dissemination of SGI-M is limited to individuals who have an established need-to-know and who are members of certain occupational groups. These occupational groups are:

1. An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government;

2. A member of a duly authorized committee of the Congress;

3. The Governor of a State or his designated representative;

4. A representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the US/IAEA Safeguards Agreement who has been certified by the NRC;

5. A member of a state or local law enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies;

6. A person to whom disclosure is ordered pursuant to 10 CFR 2.744(e); or

7. State Radiation Control Program Directors (and State Homeland Security Directors) or their designees.

In a generic sense, the individuals described above in (II) through (VII) are considered to be trustworthy by virtue of their employment status. For non-governmental individuals in group (1) above, a determination of reliability and trustworthiness is required. Discretion must be exercised in granting access to these individuals. If there is any indication that the recipient would be unwilling or unable to provide proper protection for the SGI-M, they are not authorized to receive SGI-M.

### Information Considered for Safeguards Information Designation

Information deemed SGI-M is information the disclosure of which could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of materials or facilities subject to NRC jurisdiction. SGI-M identifies safeguards information which is subject to these requirements. These requirements are necessary in order to protect quantities of nuclear material significant to the health and safety of the public or common defense and security.

The overall measure for consideration of SGI-M is the usefulness of the information (security or otherwise) to an adversary in planning or attempting a malevolent act. The specificity of the information increases the likelihood that it will be useful to an adversary.

### Protection While in Use

While in use, SGI-M shall be under the control of an authorized individual. This requirement is satisfied if the SGI-M is attended by an authorized individual even though the information is in fact not constantly being used. SGI-M, therefore, within alarm stations, continuously manned guard posts or