

§ 1017.7

consults in his or her review of a document or material to decide whether the document or material contains UCNI.

§ 1017.7 Criteria.

To be identified as UCNI, the information must meet each of the following criteria:

- (a) The information must be Government information as defined in §1017.4;
- (b) The information must concern atomic energy defense programs as defined in §1017.4;
- (c) The information must fall within the scope of at least one of the three subject areas eligible to be UCNI in §1017.8;
- (d) The information must meet the adverse effect test described in §1017.10; and
- (e) The information must not be exempt from being UCNI under §1017.11.

§ 1017.8 Subject areas eligible to be Unclassified Controlled Nuclear Information.

To be eligible for identification as UCNI, information must concern at least one of the following categories:

- (a) The design of production or utilization facilities as defined in this part;
- (b) Security measures (including security plans, procedures, and equipment) for the physical protection of production or utilization facilities or nuclear material, regardless of its physical state or form, contained in these facilities or in transit; or
- (c) The design, manufacture, or utilization of nuclear weapons or components that were once classified as Restricted Data, as defined in section 11y. of the Atomic Energy Act.

§ 1017.9 Nuclear material determinations.

- (a) The Secretary may determine that a material other than special nuclear material, byproduct material, or source material as defined by the Atomic Energy Act is included within the scope of the term "nuclear material" if it meets the following criteria:
 - (1) The material is used in the production, testing, utilization, or assembly of nuclear weapons or components of nuclear weapons; and
 - (2) Unauthorized acquisition of the material could reasonably be expected

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to result in a significant adverse effect on the health and safety of the public or the common defense and security because the specific material:

- (i) Could be used as a hazardous radioactive environmental contaminant; or
 - (ii) Could be of significant assistance in the illegal production of a nuclear weapon.
- (b) Designation of a material as a nuclear material under paragraph (a) of this section does not make all information about the material UCNI. Specific information about the material must still meet each of the criteria in §1017.7 prior to its being identified and controlled as UCNI.

§ 1017.10 Adverse effect test.

In order for information to be identified as UCNI, it must be determined that the unauthorized dissemination of the information under review could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of:

- (a) Illegal production of a nuclear weapon; or
- (b) Theft, diversion, or sabotage of nuclear material, equipment, or facilities.

§ 1017.11 Information exempt from being Unclassified Controlled Nuclear Information.

Information exempt from this part includes:

- (a) Information protected from disclosure under section 147 of the Atomic Energy Act (42 U.S.C. 2167) that is identified as Safeguards Information and controlled by the United States Nuclear Regulatory Commission;
- (b) Basic scientific information (i.e., information resulting from research directed toward increasing fundamental scientific knowledge or understanding rather than any practical application of that knowledge);
- (c) Radiation exposure data and all other personal health information; and
- (d) Information concerning the transportation of low level radioactive waste.