

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
OFFICE OF NUCLEAR REACTOR REGULATION  
WASHINGTON, DC 20555-0001

December 29, 2014

**NRC REGULATORY ISSUE SUMMARY 2014-14:  
CLARIFICATION OF INFORMATION SECURITY REQUIREMENTS FOR NON-POWER  
REACTOR LICENSEES**

**ADDRESSEES**

All holders of an operating license for a non-power reactor (research reactor, test reactor, or critical assembly) under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities."

**INTENT**

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to remind non-power reactor (NPR) licensees of NRC requirements associated with the control of sensitive unclassified information, including the protection of safeguards information (SGI) and other security-related information. This RIS is being issued based on a number of recent examples involving improper control of security-related information that could have compromised the security of nuclear facilities. Addressees will find that information in this RIS and in DG-SGI-1, "Designation Guide for Safeguards Information" will assist in determining appropriate actions to avoid similar problems and avoid inadvertent release or unauthorized disclosure that could provide assistance to those who might use the information for malevolent acts. This RIS requires no action or written response on the part of addressees.

**BACKGROUND INFORMATION**

The NRC traditionally gives the public appropriate access to information about the facilities and materials the agency regulates. Openness has been and remains a cornerstone of the NRC's regulatory philosophy. However, the NRC has always withheld some information from public disclosure for reasons of security. Information that could reasonably be expected to be useful to adversaries in planning or executing an attack against NRC-licensed facilities will be withheld from public disclosure.

On September 30, 2005, the NRC's Office of Nuclear Security and Incident Response approved and issued DG-SGI-1. That guide is intended to help NRC staff, licensees, and other persons properly determine what information requires protection in accordance with Section 147 of the Atomic Energy Act of 1954, as amended, and 10 CFR 73.21, "Protection of Safeguards Information: Performance Requirements." On October 24, 2008, the NRC published in the *Federal Register* (73 FR 63546) "Protection of Safeguards Information." That publication revised the requirements for the protection of SGI and explicitly identified the types of information that must be protected as SGI and SGI modified handling (SGI-M).

SGI is a special category of sensitive unclassified information that is protected in a manner similar to U.S. Government classified confidential information. The statutory basis for the

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enhanced protections of SGI comes from the Atomic Energy Act of 1954, Section 147. SGI information is afforded more protection than other sensitive unclassified information (e.g., privacy and proprietary information). It is defined in 10 CFR 73.2, "Definitions," as the following:

- information not classified as national security information or restricted data that specifically identifies a licensee's or applicant's detailed control and accounting procedures for the physical protection of special nuclear material (SNM);
- security measures (including security plans, procedures, and equipment) for the physical protection of source, byproduct, or SNM;
- security measures for the physical protection and location of certain plant equipment vital to the safety of production or utilization facilities.

The unauthorized disclosure of this information 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 sabotage or theft or diversion of source, byproduct, or SNM.

SGI-M refers to modified handling procedures for safeguards information held by NPR licensees that possess SNM of moderate strategic significance or SNM of low strategic significance and by certain licensees that possess or transport risk-significant radioactive materials.

SGI and SGI-M information is withheld from public disclosure and the possessor must ensure that it is protected against unauthorized disclosure per 10 CFR 73.21. This section also includes performance requirements for protecting this information and categorizes information from a NPR that possesses SNM of moderate or low strategic significance as SGI-M. Specific requirements for the type of information that needs to be protected, conditions for access, protection while in use and storage, and preparation and marking of documents are covered by 10 CFR 73.22 and 73.23, respectively.

However, some information is related to NRC-licensed facilities and could reasonably be expected to be useful to a potential adversary, but does not qualify for designation as SGI. This type of sensitive information includes general descriptions of equipment beyond what is observable or publicly available in literature or NRC regulations, including modification and/or implementation completed or contemplated by the licensee (e.g., cameras, access controls, etc.). This sensitive unclassified non-safeguards information (SUNSI) should be treated similar to commercial or financial information and withheld from public disclosure under 10 CFR 2.390(d)(1). Note however, that detailed security-related information about this equipment is normally designated as SGI.

Emergency planning scenarios should also be withheld from public disclosure under the provisions of 10 CFR 2.390(d)(1). However, procedures used for response to emergency/contingency scenarios must be marked and controlled as SGI or SGI-M as appropriate. Additional information on the control of SUNSI information is discussed in RIS 2005-26, "Control of Sensitive Unclassified Non-Safeguards Information Related to Nuclear Power Reactors," dated November 7, 2005 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML051430228); and RIS 2005-31, "Control of Security-Related Sensitive Unclassified Non-Safeguards Information Handled by Individuals, Firms, and Entities Subject to NRC Regulation of the Use of Source, Byproduct, and Special Nuclear Material,"

dated December 22, 2005 (ADAMS Accession No. ML053480073).

## **SUMMARY OF ISSUE**

The NRC staff has recently identified a number of examples involving improper marking and control of security-related information at NPRs that, had they been left uncorrected, might have compromised the security of nuclear facilities. The NRC is issuing this RIS as a reminder to NPR licensees of requirements associated with the control of sensitive unclassified information, including the protection of SGI, SGI-M, and other security-related information. Licensees should use DG-SGI-1 to assess and, if necessary, revise their procedures for handling SGI, SGI-M, and sensitive unclassified information in their normal day-to-day activities and interactions with NRC and other parties that have a need-to-know basis.

During the license renewal process, many NPR licensees submitted license renewal applications or responses to request for additional information (RAI) that contained sensitive unclassified information that should not be released to the public. In some cases, these documents were not designated as containing sensitive unclassified information and did not contain requests to withhold the information from public disclosure under 10 CFR 2.390. As a result, some license renewal applications were improperly marked and could have compromised security.

Detailed security-related documents that protect facilities (e.g., a physical security plan (PSP)) must be designated as SGI, or SGI-M as appropriate based on the requirements of 10 CFR 73.21, if it contains information that could be useful to adversaries in planning or executing an attack against NRC-licensed facilities. This designation ensures that these documents are marked, protected, and withheld from public disclosure. If a security plan containing SGI or SGI-M is improperly designated as 10 CFR 2.390, it would be improperly marked in violation of the requirements of 10 CFR 73.22 or 10 CFR 73.23, respectively. The improper designation of documents can result in an unauthorized disclosure. A cover letter informing the NRC of submission of a PSP, or of changes in a PSP, should not contain sensitive information once it is separated from the SGI document because such letters normally provide only information concerning a licensee's implementation of the required NRC security program. Such cover letters should therefore be marked as specified in 10 CFR 73.22(d)(2) and 73.23(d)(2). The NRC strives to maintain a balance between the public's right to information so they can participate meaningfully in the regulatory process and the need to protect sensitive security information from inadvertent release or unauthorized disclosure. Making such cover letters public, when possible, aids the NRC in this effort.

The NRC staff observed National Nuclear Security Administration (NNSA) security enhancement site visits and table top exercises and noted several instances where licensees did not know when information being discussed was Safeguards Information. Proper handling procedures, per the guidance in DG-SGI-1, will minimize the risk of an inadvertent disclosure of controlled information. Licensees should always be aware that goals of the physical protection program include prevention of unauthorized access to significant assets and information; to maintain capabilities that aid in the detection and interdiction of adversaries; and provide defense-in-depth to deter, or otherwise prevent theft, damage to or sabotage of said assets. The PSP will specify the actions to protect the assets and information. Licensees should fully understand which portions of the PSP are uncontrolled; controlled in accordance with 10 CFR 2.390; or controlled as Safeguards Information.

General site and access control details either in open literature or observable by the public (e.g., barriers or gates) are not typically considered SGI. General information that is not publicly available should be controlled per 10 CFR 2.390 as sensitive unclassified information. Specific information, that is not publically available, such as barrier capabilities or features, and how they are integrated into the physical security system, would be considered SGI, or SGI-M, as appropriate (e.g., site specific information that describes the size of vehicle that a barrier is able to stop). Portion marking the PSP per the guidance of DG-SGI-1 will aid the licensee in determining which sections are SGI and which section are not.

In addition to improper control of SGI, the NRC has identified the improper control of emergency plans (EP) containing SUNSI. The NRC observed improperly marked EPs left sitting out and available to those who did not have need-to-know access to the plans. NRC intervention prevented any inadvertent disclosure of information. However, as discussed in DG-SGI-1, an EP should be designated as containing information that is protected under 10 CFR 2.390 and is to be withheld from public disclosure. Information about the specific actions taken in response to unusual events, such as evacuation procedures and emergency responders' access, can aid adversaries and, therefore, should be properly designated and protected accordingly.

During other NRC site visits, staff identified PSPs that incorrectly applied the SGI or SGI-M marking requirements as specified in 10 CFR 73.22(d) and 73.23(d). Specifically, documents did not include the SGI or SGI-M marking on all pages or did not include the presence of such information in a conspicuous manner on the top and bottom of each page. The inaccurate or inconsistent application of markings could result in an inadvertent release or unauthorized disclosure. If a licensee is unsure of the correct designation for the document and conservatively marks the documents as SGI, the licensee must follow the handling and storage requirements for SGI as provided in 10 CFR 73.22(c). Only documents marked as SGI-M can be handled and stored under the requirements of 10 CFR 73.23(c).

Licensees should be sensitive to evolutions that occur on an infrequent basis. There could be instances when a licensee that normally marks its documents as SGI-M, but needs to transport, or arrange for the transportation of, more than 100 grams of irradiated reactor fuel. The licensee would be required to mark documents associated with the transportation of that material as SGI in accordance with 10 CFR 73.22(a)(2).

## **BACKFITTING AND ISSUE FINALITY DISCUSSION**

This RIS reminds addressees of existing information security requirements for non-power reactor licensees. This RIS requires no action or written response on the part of an addressee outside of following these existing requirements. Inasmuch as the RIS does not require any action, the RIS does not represent backfitting as defined in 10 CFR 50.109(a)(1), and is not otherwise inconsistent with any issue finality provision in 10 CFR Part 52. Therefore, the NRC did not prepare a backfit analysis for this RIS or further address the issue finality criteria in Part 52.

## **FEDERAL REGISTER NOTIFICATION**

A notice of opportunity for public comment on this RIS was not published in the *Federal Register* because it is informational and pertains to a staff position that does not represent a departure from current regulatory requirements and practice.

## **CONGRESSIONAL REVIEW ACT**

This RIS is not a rule as defined in the Congressional Review Act (5 U.S.C. §§ 801–808).

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## **CONTACT**

Please direct any questions about this matter to the technical contact listed below.

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