

October 2, 1998

Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Attn: Rulemaking and Adjudications Staff

DOCKET NUMBER  
PROPOSED RULE **PR 10, 11, 25 + 95**  
(63FR41206) DOCKETED  
USNRC

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Dear Secretary:

The Department of Energy, Office of Safeguards and Security, has reviewed your proposed rule to amend 10 CFR Parts 10, 11, 25, and 95. We have significant concerns that this rule, if amended as stated in your proposal, will compromise some of the nations most sensitive nuclear weapons information. Our position remains unchanged from our comment to the previous revision to this regulation.

During the process of developing a single security standard for U.S. industry for the protection of classified information, it was discovered that significant differences existed between the Department of Energy and the Department of Defense in the protection of Secret Restricted Data. Therefore, when the National Industrial Security Program Operating Manual (NISPOM) Supplement was published in February 1995, there was a recognition that a difference in protection requirements existed between the two Departments. The two Departments agree to work toward a solution. We are still in the process of reconciling these differences. The reconciliation will mean that certain nuclear weapons design information will be upgraded to Top Secret. Neither the NISPOM nor the NISPOM Supplement allow for access to Secret Restricted Data based on an "L" access authorization.

When information is created there is no distinction within Secret Restricted Data of "critical" or "nuclear weapons design, manufacturing, or vulnerability." Without the identification and marking of this type of information the implementation of the requirement within NRC would be impossible. If this requirement were implemented it poses a potential threat to Secret Restricted Data that is this countries most sensitive weapons design information being accessed by "L" cleared individuals.

Additionally, since DOE and NRC access authorizations would not provide for the same access to information we would need to purge the clearances from DOE's data base so as not to endanger our Secret Restricted Data. DOE also may decide to no longer reciprocally accept NRC facility clearances because of the difference in access authorization requirements.

If you have any questions regarding these comment please call me on 301-903-4805.

Sincerely,

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Cathy Tullis, Classified Matter Protection \*  
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