

§ 1044.05

(3) A false statement to Congress on pursuant to an issue of material fact; and

(b) Protected pursuant to the procedures in this part, including the security procedures referenced in §1044.11; and

(c) Revealed only to a person or organization described in §1044.06.

§ 1044.05 What is the effect of a disclosure qualifying as a “protected disclosure”?

If a DOE or DOE contractor employee follows the procedures of this part when making a disclosure of classified or unclassified controlled nuclear information, then the employer (DOE or DOE contractor as applicable) may not discharge, demote, or otherwise discriminate against the employee as a reprisal for making the disclosure.

§ 1044.06 Who may receive a protected disclosure?

The following persons or organizations may receive a protected disclosure:

(a) A member of a committee of Congress having primary responsibility for oversight of the department, agency, or element of the Government to which the disclosed information relates;

(b) An employee of Congress who is a staff member of such a committee and has an appropriate security access authorization for the information being disclosed;

(c) The Inspector General of the Department of Energy;

(d) The Federal Bureau of Investigation; or

(e) Any other element of the Government designated by the Secretary of Energy as authorized to receive the information being disclosed.

§ 1044.07 How can you find out if a particular person is authorized to receive a protected disclosure?

You must contact the Department of Energy Inspector General for help in determining whether a particular person is authorized to receive the classified or unclassified controlled nuclear information you wish to disclose. The Inspector General will contact the Office of Safeguards and Security as necessary to determine the security access

10 CFR Ch. X (1–1–06 Edition)

authorization of the person to receive the protected disclosure.

§ 1044.08 Do you have to submit the documents for classification review before you give them to someone?

Yes, you must submit each document with a classification or control marking and any unmarked document generated in a classified or controlled subject area to the Inspector General. The Inspector General forwards each document to the Office of Nuclear and National Security Information for a determination as to whether the information in the document is properly classified, controlled, or may be released to the public.

§ 1044.09 What do you do if you plan to disclose classified or unclassified controlled nuclear information orally rather than by providing copies of documents?

You must describe in detail to the Inspector General what information you wish to disclose. The Inspector General may require that the information to be disclosed be put in writing in order to ensure the Inspector General obtains and provides accurate advice. The Inspector General will consult with the Office of Nuclear and National Security Information who will provide you with advice, through the Inspector General, as to whether the information is classified or controlled and any steps needed to protect the information.

§ 1044.10 Will your identity be protected?

Yes, both the Inspector General and the Office of Nuclear and National Security Information must protect, consistent with legal requirements, your identity and any information about your disclosure.

§ 1044.11 How do you protect the information that you want to disclose?

To protect classified information and unclassified controlled nuclear information you plan to disclose, you must:

(a) Only disclose the information to personnel who possess the appropriate clearance and need-to-know for the information disclosed as required in 10 CFR part 710, after verifying any special authorizations or accesses, such as Sensitive Compartmented Information,

Department of Energy

Pt. 1045

Special Access Program, and Weapon Data information;

(b) Use only equipment (such as computers or typewriters) that is approved for classified processing for the generation of classified documents;

(c) Mark documents as required by 10 CFR part 1045 (classified information), 10 CFR Part 1017 (unclassified controlled nuclear information), or as required by the Office of Nuclear and National Security Information.

(d) Use only approved copiers to reproduce documents;

(e) Store classified documents in facilities approved by the U.S. Government for the storage of classified material;

(f) Use only approved destruction devices to destroy classified documents;

(g) Use only appropriate secure means, such as secure facsimile or secure telephone, to provide classified information orally or electronically when transmitting or communicating that information (e.g. the applicable classified mailing address); and

(h) Follow any additional specific instructions from the Office of Safeguards and Security on how to protect the information.

§ 1044.12 What procedures can you invoke if you believe you have been discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure?

If you believe you have been discriminated against as a reprisal for making a protected disclosure, you may submit a complaint to the Director of the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0107, or you may send your complaint to the Director, Office of Hearings and Appeals, by facsimile to FAX number (202) 426-1415. In your complaint, you should give your reasons for believing that you have been discriminated against as a reprisal for making a protected disclosure, and include any information you think is relevant to your complaint. The Office of Hearings and Appeals will conduct an investigation of your complaint unless the Director determines your complaint is frivolous. The Director will notify you in writing if your complaint is found to be frivolous. If an investiga-

tion is conducted, the Director will submit a report of the investigation to you, to the employer named in your complaint, and to the Secretary of Energy, or the Secretary's designee. The Secretary, or the Secretary's designee, will take appropriate action, pursuant to 42 U.S.C. 7239(k), to abate any discriminatory actions taken as reprisal for making a protected disclosure.

PART 1045—NUCLEAR CLASSIFICATION AND DECLASSIFICATION

Subpart A—Program Management of the Restricted Data and Formerly Restricted Data Classification System

Sec.

- 1045.1 Purpose and scope.
- 1045.2 Applicability.
- 1045.3 Definitions.
- 1045.4 Responsibilities.
- 1045.5 Sanctions.
- 1045.6 Openness Advisory Panel.
- 1045.7 Suggestions or complaints.
- 1045.8 Procedural exemptions.
- 1045.9 RD classification performance evaluation.

Subpart B—Identification of Restricted Data and Formerly Restricted Data Information

- 1045.10 Purpose and scope.
- 1045.11 Applicability.
- 1045.12 Authorities.
- 1045.13 Classification prohibitions.
- 1045.14 Process for classification and declassification of restricted data and formerly restricted data information.
- 1045.15 Classification and declassification presumptions.
- 1045.16 Criteria for evaluation of restricted data and formerly restricted data information.
- 1045.17 Classification levels.
- 1045.18 Newly generated information in a previously declassified subject area.
- 1045.19 Accountability for classification and declassification determinations.
- 1045.20 Ongoing call for declassification proposals.
- 1045.21 Privately generated restricted data.
- 1045.22 No comment policy.

Subpart C—Generation and Review of Documents Containing Restricted Data and Formerly Restricted Data

- 1045.30 Purpose and scope.
- 1045.31 Applicability.
- 1045.32 Authorities.
- 1045.33 Appointment of restricted data management official.