
PROCESS

The process outlined in 10 CFR Part 824 is designed to be a comprehensive and fair administrative process that will allow for discussions with the contractor prior to a formal notice of violation which may contain a proposed fine. In the event the Department proposes to fine a contractor, the contractor will always be provided the opportunity to respond and to request a hearing before an Administrative Law Judge.

FACTORS THAT WILL BE CONSIDERED

Violations of classified protection requirements will be assigned a severity level which will be determined based upon an evaluation of the specific facts and circumstances of each case. In addition, a number of other factors will be considered including the frequency and willfulness of the violation(s) and whether appropriate and effective corrective measures have been taken by the contractor to resolve the problem. The rule also provides for reduction of any proposed civil penalty when the contractor has self-reported the violation.

MORE INFORMATION

To access a copy of 10 CFR Part 824 please go to:
http://www.securitymanagement.com/library/information_security0405.pdf

For more information regarding the Department's Civil Penalties Program for Classified Information Security Violations, please go to <http://www.hss.doe.gov> or contact HSS the Office of Security Enforcement at (301) 903-9663.



Title 10 Code of Federal
Regulations Part 824

*A Synopsis: Procedural
Rules for the
Assessment of Civil
Penalties for Classified
Information Security
Violations*

PURPOSE

Title 10, Code of Federal Regulations, Part 824 (10 CFR Part 824) is the rule published by the Department of Energy (DOE) to implement Section 234B of the Atomic Energy Act of 1954, 42 U.S.C. 2282b. Section 234B stipulates that a contractor or subcontractor to the DOE who violates any rule, regulation, or order relating to the safeguarding or security of Restricted Data, other classified information, or sensitive information shall be subject to a civil penalty (fine) not to exceed \$100,000 per offense. In publishing 10 CFR Part 824, DOE has determined that civil penalties under Part 824 will only be assessed for violations of requirements for the protection of classified information (Restricted Data, Formerly Restricted Data and National Security Information). The rule does not include civil penalties relating to failure to protect other unclassified sensitive information.

SCOPE

This regulation applies to entities that have entered into contracts with DOE, rather than the individual employees of contractors. Contractors and their subcontractors are held responsible for the acts of their employees who fail to observe rules, regulations or orders.

Violations of classified information security requirements may be identified through many sources, including: incident reporting and management, security self-assessments, periodic surveys, independent oversight inspections, and Office of the Inspector General and Government Accountability Office activities.

ENFORCEABLE RULES, REGULATIONS AND ORDERS

Violations of requirements to protect classified information found in the following rules and directives could result in 10 CFR Part 824 action:

10 CFR 1016, *Safeguarding of Restricted Data* (this rule only applies to Access Permit holders)

10 CFR Part 1045, *Nuclear Classification and Declassification*

DOE M 470.4-1, *Safeguards and Security Program Planning and Management*

DOE M 470.4-2, *Physical Protection*

DOE M 470.4-3, *Protective Force*

DOE M 470.4-4, *Information Security*

DOE M 470.4-5, *Personnel Security*

DOE M 470.4-6, *Nuclear Material Control and Accountability*

DOE M 205.1-4, *National Security System Manual*

In addition, failure to comply with a Compliance Order issued by the Secretary of Energy dealing with the protection of classified information could be subject to a 10 CFR Part 824 action.
