CommuniQué

From the Classification Director's Office

In my previous letter to you, I mentioned a pending reorganization that would affect the Office of Classification (OC). I also mentioned that classification markings in the electronic environment, particularly for classified e-mail messages, will require substantial change in DOE. In this letter, I would like to share additional details that are now available on the reorganization (i.e., OC's placement within the new organization and what it means for the Classification Program) and highlight the recently issued Inspector General (IG) report on "Review of Controls Over the Department's Classification of National Security Information (NSI)."

Under the new management structure, OC will report to the newly created Associate Under Secretary for Environment, Health, Safety and Security along with most other Office of Health, Safety and

GETTING TO KNOW YOU . . . OC'S Classification Training Institute (CTI) Ensures Consistent Application of Departmental Standards

"It is only as we develop others that we permanently succeed." — *Harvey S. Firestone*

"Learning is not attained by chance; it must be sought for with ardor and diligence." — *Abigail Adams*

Have you ever wondered where your Derivative Declassifier (DD) or Headquarters (HQ) Derivative Classifier (DC) recertification testing comes from? Who trains the Classification Officer (CO) providing training to your field element's DCs? Or how do other agency

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Upcoming Events 2014

June 3	General Course for Derivative Classifiers
June 16-20	Overview of Nuclear Weapons Classification Course
July 29	General Course for Derivative Classifiers
September 16-18	General Course for Classification Officers/ Analysts
September 23	General Course for Derivative Classifiers
September 30	General Course for Derivative Classifiers (Albuquerque)
October 21-22	General Course for Derivative Declassifiers

Note: Courses are conducted at DOE Headquarters, Germantown, MD, unless otherwise noted.

NEW! Clicking on links within the electronic PDF version of this CommuniQué will now allow you to jump back and forth between multiple pages of an article or to go from the "Inside this issue" or "Special points of interest" tables to the referenced articles. Clicking on the "Home" icon at the bottom of a page will return you to this page for navigation.

Inside this issue:

Special points of interest:

- New information on pending reorganization and the Inspector General report — See Director, OC, letter on this page
- NEW—Office of Classification organizational e-mail box— see page 7
- The role of the DC in marking a "Working Paper" — see page 9
- Electronic transmission of large FOIA and Mandatory Review packages—see page 12
- Changes to the United Kingdom classification levels— see page 13

From the Classification Director's Office . . . Continued from page 1

Security (HSS) functions. As described in an e-mail from Secretary Moniz (2/12/14), this new office consolidates the primary mission-support organizations of the Department in order to institute enterprise-wide solutions to common challenges across the complex, including information management, acquisition, and human resources, and will be managed by Matthew Moury, Acting Associate Under Secretary. The remaining HSS functions for oversight and enforcement and the National Training Center will report directly to the Secretary as the new Office of Independent Enterprise Assessments (IEA) led by Glenn Podonsky (providing independent evaluations of management performance in safety, security, and other areas).

While the designated Senior Agency Official (SAO) under Executive Order (E.O.) 13526 will likely change as well as certain responsibilities identified in DOE Order (O) 475.2A (e.g., declassifying Restricted Data (RD) information as well as other responsibilities now performed by the Principal Deputy Chief for Mission Support Operations, Office of Health, Safety and Security), our transition to the new organization will be largely transparent to the classification community. The classification requirements called out in DOE O 475.2A (including those for on-site evaluations by OC to support the SAO for E.O. 13526 and to meet RD Classifier requirements in 10 CFR part 1045) will not change. Additionally, the initial transition will be facilitated by Steve Kirchhoff who is an integral part of the current HSS management team and is already very familiar with the classification program.

As OC transitions to the new organization, we will still be there to ensure that classification activities throughout the Department are consistent with both the protection of national security as well as the President's goals of openness and transparency. OC will continue to develop policies for the identification of classified and controlled unclassified information (to include applicable DOE regulations); manage the Government-wide program to classify and declassify nuclear weapons-related technology and the DOE-wide implementation of NSI; serve as the focal point for developing classification and declassification guidance; conduct public release reviews for DOE; and provide classification training for the Department as well as RD/Formerly Restricted Data (FRD) recognition training for other agencies.

One focus area in the near future will be the newly released IG report recommendations. In particular, one issue that we will need to pay attention to as a community will be marking documents in the electronic environment. This was a finding in the IG report that may have a significant impact on how the Department does business. Three of the seven recommendations centered on the Department's need to ensure that e-mails containing classified NSI are appropriately marked while in the original electronic format to include: (1) updating Department guidance on e-mails, (2) making sure that e-mails in the original electronic format are marked, and (3) implementing a process to hold derivative classifiers (DCs) accountable for following NSI requirements, including the marking of classified NSI documents and e-mails.

U.S. Department of Energy
Office of Inspector General
Office of Audits and Inspections

Inspection Report

Review of Controls Over the Department's Classification of National Security Information

DOE/IG-0904   March 2014

While it is clear that the Department has not fully implemented the provisions from E.O. 13526 for marking NSI in the electronic environment, we also want to make sure that the recommendations for e-mails containing NSI will not adversely impact our established processes for classifying and protecting RD and FRD. The E.O. requirement to fully mark the classification of each NSI e-mail is problematic given the widespread ability to send e-mails over classified networks. This means that almost all cleared employees, even those who have not been trained and certified as DCs, have the ability to generate and send classified electronic documents. This does not fit well within DOE's long-established system of a smaller, discrete set of trained classifiers who are authorized to make final decisions.

Potential solutions to these issues, such as permitting all e-mail users to be DCs for NSI, will require extensive coordination among several offices and may require policy changes. The cost of change and the potential to degrade the existing classification program for RD and FRD information must be considered. As the Department works to fully implement these requirements, elements with classified networks need to ensure that all employees generating e-mails on the classified system know the requirements for DC review and that e-mails are being marked in accordance with 32 CFR 2001.23. The Office of Security Policy will be working with the Office of the Chief Information Officer to issue DOE-specific guidance on marking in the electronic environment. Classification officials who conduct self-assessments and classification decision reviews must include a review of classified NSI e-mails to ensure that they are properly classified and marked.

The other recommendations from the IG report were to: (1) incorporate guidance on the process for formal challenges in DOE O 475.2A, (2) provide training and guidance on marking working papers, (3) ensure individuals (including DCs) are trained and made aware of their responsibilities to make formal challenges, and (4) ensure that

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From the Classification Director's Office . . .

self-assessments and document decision reviews are conducted at intelligence elements, as required. Information on some of these additional areas of interest can be found in the Lessons Learned article on of this CommuniQué as well as other articles in this issue.

As we work to address the IG issues and other classification issues, it is important that individuals within and outside of the classification community feel that they can raise classification concerns and that their voices will be heard. For information about the Department's classification challenge procedure, please see the article on of this issue.

As always, I can be contacted at (301) 903-3526 or at andrew.weston-dawkes@hq.doe.gov.

Getting to Know You . . .

reviewers get training to recognize Restricted Data (RD)/Formerly Restricted Data (FRD) for referral to the Department of Energy for review? The Classification Training Institute (CTI) provides training and testing with the goal of ensuring the consistent application of DOE's defined principles of balancing the requirements for protecting classified information against the requirements for dissemination.

Each year, OC's CTI devotes significant resources to maintaining a comprehensive education program for Field Element and contractor COs; all DDs Department-wide; and all Classification Representatives, DCs, and Unclassified Controlled Nuclear Information Reviewing Officials located at HQ. In addition to developing course materials and providing instructor-led training, CTI also manages the classification authorities certification/recertification program at HQ as well as for DDs Department-wide. In the last fiscal year (FY) alone, CTI generated correspondence packages (including certificates and authority descriptions) for 70 new authority certifications and 156 recertifications.

In addition to training a number of the classification authorities within the Department, CTI also devotes substantial time and energy to training personnel at other Government agencies who are reviewing document collections pursuant to the automatic declassification provisions (section 3.3) of E.O. 13526. Public Law 105-261, Section 3161, requires that records being considered for declassification under the E.O. receive a page-by-page review for highly sensitive nuclear information that is classified as RD/FRD by the Atomic Energy Act.* Training to recognize unmarked RD/FRD in other Government agency (OGA) collections is provided through the Department's Historical Records Restricted Data Reviewers (HRRDR) Course. The HRRDR Course provides both a historical perspective of the U.S. Nuclear Energy Program as well as a technical overview of a number of areas related to the design, production, and utilization of atomic weapons; the production of special nuclear material used in them; and the controlled production of nuclear energy, including Naval Nuclear Propulsion Information. In FY 13, 8 HRRDR Courses were taught resulting in 102 additional trained and certified OGA reviewers, and 15 refresher courses were conducted for 141 HRRDRs.

For DOE and NNSA HQ personnel and field classification office employees, CTI also offers courses specific to interpreting and applying classification guidance in the nuclear weapons area. The Overview of Nuclear Weapons Classification Course gives a technical overview of the design and use of nuclear weapons with an emphasis on the many classification issues associated with them. A similar overview course covering the Safeguards and Security classification guide will be developed once the new CG-SS-5 is issued.

With all that training, testing, and certification/recertification tracking and authority description generating, you may think that the CTI has a whole army of instructors and support staff at its disposal—if so, it's a good thing that this isn't a test question! Federal management for the contractor-led and -staffed CTI is provided by the Director, Office of Quality Management (Nick Prospero), who also provides instruction. Four additional instructors (Randy Grimm (Task Leader), Allen Barwick, Charlie Jones (part-time), and Richard Worthington) teach the majority of the courses with some supplementation from Federal subject matter experts (Fletcher Whitworth, Lesley Nelson-Burns, and Mary Deffenbaugh) while one contractor instructor (Roger Andes) is dedicated to Performance-Based Testing on the classification guides. A new instructor, Alex Schrider, has just come on board and is still "learning the ropes." Administrative support for all of these activities is provided by a single Training Program Specialist (Christy Craver) with part-time (but full workload) assistance from Jane Morgan.

Questions about the training offered by the Office of Classification can be directed to Nick Prospero at 301-903-9967 or nick.prospero@hq.doe.gov.

* Page-by-page review of other agency collections for RD/FRD is not required if the other agency determines that the collection is "highly unlikely" to contain such information.

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Ever Wonder How The Department Avoids Overclassification?

You're probably aware that within the last few years several studies have concluded that the U.S. Government is classifying too much information thereby requiring millions of employees to have costly Government clearances. Perhaps you've wondered what steps the Department of Energy (DOE) takes to avoid overclassification.

It has long been the policy of DOE and its predecessor agencies to conduct as much of its research and development work as possible on an unclassified basis. This policy is meant to promote the free interchange of ideas essential to scientific and industrial progress. However, it is important to note that certain information generated by the Department concerning nuclear weapons-related technology is some of the most sensitive classified information within the U.S. Government. Therefore, DOE has a number of mechanisms in place governing the classification of this information (as well as the documents that contain it) to ensure that it is properly protected while still limiting classification to only the information that truly impacts national security.

National Directives Define Criteria for Classifying Information: In order for information to be classified, it must meet certain criteria identified in national directives. National Security Information (NSI) must meet the criteria under section 1.1 of E.O. 13526 (to include falling into one of the eight categories of information allowed to be classified under 1.4) while Restricted Data (RD) must meet the definition of RD from the Atomic Energy Act as well as the presumptions for classification identified in 10 CFR part 1045.

Number of Individuals Who Can Classify Information is Limited: Decisions on the classification of information can only be made by a very small number of individuals within DOE. Initial NSI determinations must be made by Federal personnel who have been trained and certified as original classifiers. At present, there are only 13 original classifiers within the entire DOE/National Nuclear Security Administration complex. Each year, the Office of Classification (OC) assists the Senior Agency Official under E.O. 13526 in assessing whether these individuals have a continued need for the authority.

When it comes to making the initial classification determination for RD information, only one individual in the Department — the Director, OC — is allowed to determine if the information meets the criteria in 10 CFR part 1045 for classification. Given DOE's fully developed guidance-based system of classification (that dates back to the days of the Atomic Energy Commission), the need to make new classification determinations on information (either as RD or NSI) is very rare.

Well-Established and Defined Guidance-Based System: The Department relies on a hierarchy of classification guidance to promulgate DOE classification decisions on information. Once a classification determination is made, it is documented as a topic in classification guidance for use by reviewers who have been trained on how to use the guide and have been certified as Derivative Classifiers or Declassifiers. These classification guides are centrally approved by the Director, OC, and their use helps to ensure that derivative determinations on documents will be consistent and accurate throughout the Department. Approximately 100 guides in different subject-specific areas are maintained by HQ. These guides in turn serve as the basis for the determinations in local guides that tailor the topics to apply to the unique information at a particular field site.

Additionally, metadata associated with the guide topics (i.e., the "basis topic") allows OC to document whether an added topic reflects an initial determination that classifies a key concept (i.e., "keystone") or whether classification is dependent on another topic in the guide and, therefore, not a new determination on information. For example, classification of a number of topics related to transporting special nuclear materials (e.g., information on schedules, routes, etc.) is based on protecting information that reveals the location of a shipment (i.e., the classification keystone is the location), so the classification of other information that would also reveal the location would not constitute new determinations on the information.

Documents Must Be Classified By Trained Derivative Classifiers: The only individuals allowed to make <u>final</u> classification determinations on documents are those who have received classification training and who have been officially certified as Derivative Classifiers. Additional training is required every 2 years in order to maintain the certification. Derivative Classifier authority is only granted in specific subject areas related to the classifier's job or for the program in which he/she works to make sure the classifier is competent in the field (e.g., some Derivative Classifiers only have authority to classify documents that contain safeguards and security information).

Checks for Overclassification: In addition, national standards require agencies to annually check documents to ensure that correct classification determinations based on classification guidance are being made (classification decision reviews). If done correctly, these reviews provide real data on how well

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Derivative Classifiers are applying classification guidance to make determinations and whether overclassification is being avoided.

Periodic Reviews of Information for Declassification:

Fundamental Classification Guidance Review (FCGR) – For well over 2 years (June 2012 completion), the Department (OC's Office of Technical Guidance) devoted significant time and resources to the review of 2,800 topics found in 67 Headquarters (HQ) classification guides and 11 HQ classification bulletins with the help of approximately 200 subject matter experts (SMEs) from across the complex. For each of the topics, SMEs identified the essential information protected through classification, explained why the information requires continued classification, and recommended improvements to the existing classification guidance. This effort went well beyond the minimum requirements in E.O. 13526. The entire FCGR process was overseen by a Steering Committee consisting of senior DOE/NNSA classification experts from the major DOE program offices.

Systematic Reviews of RD - In December 2011, the Office of Technical Guidance began a systematic review for declassification of RD in accordance with the periodic review requirements from 10 CFR part 1045. This is not the first time this type of systematic review has been conducted. The Department conducted a similar review called the Fundamental Classification Policy Review in 1995 and 1996. *[Keep an eye out for the Fall CommuniQué for more information on this process.]* The Department of Defense is taking the lead on a similar review for certain military utilization Formerly Restricted Data with support from DOE.

What Lessons Can Derivative Classifiers Learn from Recent Reviews of the Classification Program?

In the past year, the Office of Classification conducted several on-site evaluations of organizations, as required by Attachment 5 of DOE Order (O) 475.2A, and received reports from Classification Officers and Classification Representatives who had conducted their own biennial self-assessments and annual classification decision reviews of documents. An external review was also recently conducted by the DOE Office of Inspector General (IG). Some of the issues identified during these reviews are recurring from previous years and can be easily resolved with a little attention to detail (e.g., mistakes made while completing the classification authority block), but some new problems with markings on e-mails and working papers require attention and are highlighted below.

E-mails: Unfortunately, DOE has not properly implemented a process for reviewing and marking e-mails to the fullest extent possible. The requirement is that NSI e-mail markings follow the same rules that paper documents do in accordance with 32 CFR 2001.23. However, authors of e-mails are not having their classified e-mails properly reviewed and marked. Problems identified with marking e-mails include:

Individuals using marking tools when they are not properly trained and appointed as DCs and

Individuals marking e-mails at system high (rather than marking them as final documents based on Derivative Classifier (DC) review) or not marking e-mails at all.

The Office of Classification has developed and is beta testing an e-mail marking guideline. Once finalized, this guideline can be shared with the program elements.

Working Papers: The IG identified a problem with DCs having paper documents in their possession that were missing classification authority blocks. DCs must follow the same requirements for reviewing and finalizing documents as anyone else. If you have a document that is less than 180 days old and has not been finalized, it must be marked as a working paper. This requirement also applies to electronic documents. Familiarize yourself with the rules for marking working papers since this will be an area of interest over the next couple of years. See the article on working papers from page 9 of this CommuniQué.

Challenges: The IG also identified a problem with DCs not understanding the procedures they should follow when challenges to their classification determinations are received. As a DC, you should familiarize yourself with this process and be able to find the requirements for processing a challenge if asked. DC knowledge of challenge procedures will also be an area of interest over the next couple of years. For additional detail on this procedure and where to locate the requirements, please see the article on challenges from page 7 of this CommuniQué.

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What Lessons Can DCs Learn . . . *Continued from page 5*

Classification Authority Block: The most common problems occur with the classification authority block. We'll address issues with each of the three lines separately:

"Classified By" line: DCs are not including their position titles. Additionally, the agency and office of origin are missing. When not otherwise evident from the document, this information must appear on the "Classified By" line along with the DC's name and position title. To take the guess work out of it, DCs should use the same entry on every document that they classify.

"Derived From" line: DCs are not including the date of the guide. The agency and organization that originated the guide are also missing. This information must appear on the "Derived From" line along with the short title of the guide.

If multiple sources were used (i.e., more than one guide or source document as the basis for the classification determination), DCs have been correctly annotating the "Derived From" line with "Multiple Sources," but are not listing the sources that they used. These must be listed either on the document or as a separate page attached to the document. When using the "Multiple Sources" annotation, the "Derived From" line of the classification authority block and the format for the source list are written as follows:

Derived From: Multiple Sources

Source List:
CG-XX-1, 9/10/2011, DOE OC*
CG-YY-2, 10/11/2012, DOE OC*
CG-ZZ-3, 11/12/2013, DOE OC*

* Note: When using a source list with a portion marked, commingled document (i.e., one that contains RD/FRD/TFNI and NSI), the declassification instruction for the NSI portions must also be listed in the "Source List," not on the "Declassify On" line of the classification authority block. Information on requirements for placement of the source list for commingled documents can be found in DOE O 475.2A, Attachment 4, paragraph 1.d.(3).

"Declassify On" line: It is safe to say that marking the "Declassify On" line incorrectly is the biggest marking problem that we've been encountering. A frequently occurring issue is documents that are missing declassification instructions when they contain NSI only. Declassification instructions are required on all NSI-only documents. They are not required on documents that also contain RD, FRD, or TFNI unless the document has been portion marked—see the "Note" on commingled documents above.

Please take the time to look up the correct procedure for marking the "Declassify On" line prior to finalizing your document. Many examples of correctly written declassification instructions and correctly completed classification authority blocks can be found in the Declassification Instruction Guide, March 2014, at the following link:

http://energy.gov/hss/downloads/declassification-instruction-guide-march-2014.

If you would like to test your knowledge of declassification instructions, check out the "Marking Challenge" on page 10 of the Fall 2013 CommuniQué at:

http://energy.gov/hss/classification-documents-and-publications

Please contact Nick Prospero at (301) 903-9967 or nick.prospero@hq.doe.gov if you have questions about these lessons learned or about evaluations of the Classification Program.

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Classified By: _John Doe, Director, DOE, Office of Security_
Derived From: CG-SS-4, 9/12/00, DOE OC
Declassify On: 25X2, 20631001

YOU'RE INVITED!

WHO: Classification Officers/Representatives and members of the classification community.

WHAT: Send your official correspondence to the Office of Classification's new organizational e-mail box. Also expect to receive correspondence from this box (all Directors in OC can send e-mails from this account).

WHERE: officeofclassification@hq.doe.gov

WHY: (1) Increased visibility will allow you to communicate with staff and management more effectively (all management and appropriate staff will have access) and (2) help us to enhance our internal coordination providing for shortened response times to you.

Please **RSVP** as you generate official correspondence (e.g., self-inspection reports and comments on draft orders) by e-mailing it directly to our new mailbox.
Please Note: At this time, we are unable to receive Official Use Only or encrypted e-mails at this address.

Questions can be addressed to our staff POC, Mr. Douglas Harden, at (301) 903-1145 or douglas.harden@hq.doe.gov.

What's a Derivative Classifier To Do When Someone Questions a Classification Determination?
(Reviewing the Process for Classification Challenges)

If you are a Derivative Classifier (DC), you can probably remember debating the classification of a document or information with someone. This could have been someone who brought you a document, another DC, or even your Classification Officer (CO). Discussion has always been an important part of classification because it gives everyone a better understanding of classified information.

At times, however, these discussions may not result in agreement. When this happens, individuals who disagree with the classification of a document or who think that information should not be classified may challenge the determination. Not only can these individuals challenge whether a document or information should be classified, but they can also challenge the level or category of classification.

Although challenges can occur for both information and documents, DCs are more likely to be challenged on the classification of a document. So, in this article, we'll specifically focus on the process for challenging the classification status of a document. It is important to remember that information and documents that are the subject of a challenge must be handled as classified at the highest level and category indicated by the guide topic until the challenge receives final resolution by the appropriate official.

> **Informal Challenge:** The first step in a document challenge can be informal and involves discussion with the DC who made the determination. The person making the challenge should ask the DC to explain why the document is classified. The DC should explain the classification guide topic on which the determination is based

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Reviewing the Process for Classification Challenges . . .

and why the classification level and category is appropriate (this assumes the individual making the challenge has the appropriate clearance level for the classified information being discussed). If the individual is not satisfied, the CO can be contacted for further explanation. This informal process provides for a full and quick discussion and provides an opportunity to resolve the issue at the lowest possible level and with less burden on the challenger (e.g., an informal challenge does not have to be in writing).

Formal Challenge: Classification of a document may also be formally challenged by written notification directly to the Office of Classification (OC) or to the local CO or Classification Representative (CR). If the CO/CR cannot resolve the challenge, it will be forwarded to OC for resolution. OC will usually respond within 60 days*. Executive Order (E.O.) 13526 requires agencies that are unable to respond to a National Security Information (NSI) challenge within 60 days to acknowledge it in writing and provide a date by which the agency will respond. If the challenger is not satisfied with the response (regardless of the type of information involved), the individual may then appeal to the Principal Deputy Chief for Mission Support Operations.**

Interagency Security Classification Appeals Panel (ISCAP): E.O. 13526, Classified National Security Information, allows for a final appeal for NSI. This appeal may be submitted to the Interagency Security Classification Appeals Panel. Additionally, a challenger who does not receive a response to a formal agency appeal within 120 days, may also forward it to the ISCAP for a decision. If the appeal concerns a document that also contains Restricted Data/Formerly Restricted Data or Transclassified Foreign Nuclear Information, the document must first be redacted so that only the NSI is considered during the appeal process.

Information Security Classification Appeals Panel
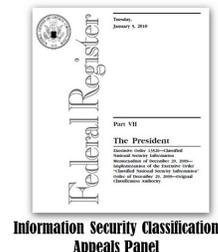
Challenges ensure a healthy and accurate classification program, so anyone with a concern is encouraged to challenge a classification determination. Individuals who initiate challenges are not subject to retribution. Information concerning challenges can be found in DOE Order 475.2A, *Identifying Classified Information*; 32 Code of Federal Regulations (CFR) 2001, *Classified National Security Information, Final Rule*; and 10 CFR Part 1045, *Nuclear Classification and Declassification*. You may also contact the Office of Classification's outreach program at (301) 903-7567 or outreach@hq.doe.gov.

*   Note: 10 CFR part 1045 allows 90 days for agencies to respond to RD/FRD challenges.

**   Note: The specific official to whom this appeal should be sent is current at the time this newsletter is being issued, but may change in the future with the impending Departmental reorganization.

Informal Document Challenge
(Can Just be a Discussion)

Formal Document Challenge
(In Writing)
(Also Includes Final Appeal for RD/FRD/TFNI)

Information Security Classification Appeals Panel
(Additional Appeal for NSI)
(Appeal is External to DOE)

**When Is A Derivative Classifier (DC) Not A DC?
(aka "What Does It Mean When A DC Applies A 'Working Paper' Marking")?**

Many times when we talk about "Working Papers," we focus on non-DCs since they are not authorized to make classification determinations on documents they originate. When non-DCs mark documents, they are protecting them at the highest potential classification (based on informed judgment) until a DC makes a formal classification determination based on a full review of all information in the document. But what happens when a DC originates a document and wants to protect it as a "Working Paper" without a full classification review (e.g., NSI notes that will go into the classified burn bag in a couple of weeks, but would require portion marking if marked as a final, classified document)? Is the DC allowed to mark the NSI notes as a "Working Paper"?

Full Classification Review Vs. Highest Possible Protection: The answer is "absolutely," but with **CAUTION –** As you know, the classification markings required for a document that has received a full (i.e., final) classification review by a DC are different from the more limited set of markings required in DOE Order (O) 471.6 and 32 CFR part 2001 to **protect** the document as a "Working Paper" at the highest potential classification until a full classification review is obtained. In other words, applying the "Working Paper" moniker to a document signals that a full classification review has not yet been conducted, regardless of whether the marking was applied by a DC or a non-DC. Likewise, application of a classification authority block to a document signals that a full review has been conducted. Full review includes: (1) basing the determination on specific guide topics (not informed judgment of the highest possible protection) and (2) ensuring that classified associations between different paragraphs or different sections of the document have been identified and are appropriately reflected in the final classification marking of the document (including any required portion marking).

Avoid Ambiguity: Given that these two distinctly separate sets of markings communicate different information about whether a full classification review has been conducted, it is important that DCs remember not to mix the two sets of markings as it could create ambiguity. In other words, decide which hat you're wearing. Are you wearing your DC hat and marking the document based on a full classification review? Or, are you merely marking the document at the highest potential protection based on informed judgment prior to conducting a full classification review? If marking based on informed judgment, then you're not using DC authority and must mark the document as a "Working Paper" following the guidelines below under "Working Paper Refresher."

Also Remember: If the information in the document is not within your authorized subject area as a DC, you are not allowed to conduct a full classification review and must protect the document as a "Working Paper" prior to obtaining review by an appropriate DC in accordance with required timelines. Questions on classification review requirements or DOE O 475.2A can be sent to the Office of Classification's Outreach Program at (301) 903-7567 or Outreach@hq.doe.gov. The Office of Security Policy is the Office of Primary Interest for DOE O 471.6.

**What is an "informed judgment" of the highest
potential protection for a "Working Paper"?**

This means that the classification level and category markings (if RD/FRD/TFNI) for a "Working Paper" are based on some knowledge of what the classification of the information in the document might be. Some examples of the basis for this judgment could be prior communication with a DC, the classification markings on a document that has previously received formal DC review, or knowledge/experience of what is or isn't RD or NSI. If unsure of the highest possible protection for the information in the document, consult a DC for guidance. Also, keep in mind that when determining the appropriate degree of protection for the "Working Paper," any caveats associated with the information should be considered.

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When is a DC Not a DC? . . .

"Working Paper" Refresher

A document in a classified subject area must be reviewed by a DC or marked as a "Working Paper."

Timeline (180-Day Dividing Line):   At 180 days, a document that has been marked as a "Working Paper" <u>must</u> receive full classification review by a DC and, if found to contain classified, must receive all markings required for a final, classified document. If found to be unclassified, the "Working Paper" and classification level and any category markings must be removed. Review of a "Working Paper" is not required when destroying the document at or prior to 180 days (following the applicable procedures for classified destruction).

<u>Review Required Prior to 180 Days</u>:   A marked "Working Paper" requires review by a DC earlier than 180 days if (1) released by the originator outside the originating activity or (2) filed permanently.
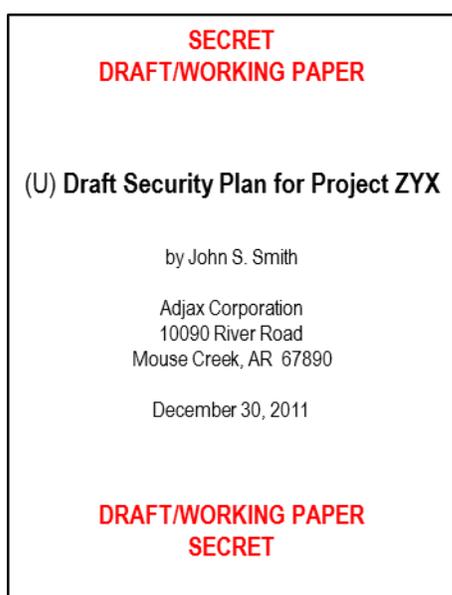
<u>Living Documents</u>: Documents that are updated frequently, as documented in accordance with techniques described in the site's security plan, are considered to originate on each date that changes occur (i.e., the 180-day clock starts over).

"Working Paper" Markings: (1) The notation "Draft" or "Working Paper" must appear on the front cover until the document receives **formal** DC review; (2) the document must be dated when created (and, if a living document, the date of each update documented); and (3) the classification level and category (if RD/FRD/TFNI) reflecting the highest possible protection for the document must be marked on all pages of the document top and bottom.

NOTE: Keep in mind that the use of Top Secret within DOE is very limited.   Additionally, Top Secret is accountable and has additional protection requirements.

<u>Other Things To Keep In Mind:</u>   (1) Other markings required for documents that have received a full DC review are not required for a "Working Paper" and could cause ambiguity as described earlier in the article; (2) if the document originator is unsure of the highest possible protection for a "Working Paper," then a DC must be consulted; and (3) the appropriate degree of protection for the "Working Paper" should take into consideration any caveats associated with the information.

CAUTION: E-mail messages must be marked as final documents for transmission following the requirements in 32 CFR 2001.23.

SECRET
DRAFT/WORKING PAPER

(U) Draft Security Plan for Project ZYX

by John S. Smith

Adjax Corporation
10090 River Road
Mouse Creek, AR 67890

December 30, 2011

DRAFT/WORKING PAPER
SECRET

SAMPLE WORKING PAPER MARKINGS FROM THE DOE MARKING REFERENCE

CAUTION
180-day limit ahead

Route 180

DC

Why did the chicken cross the road? To get to the DC on the other side for a classification determination.
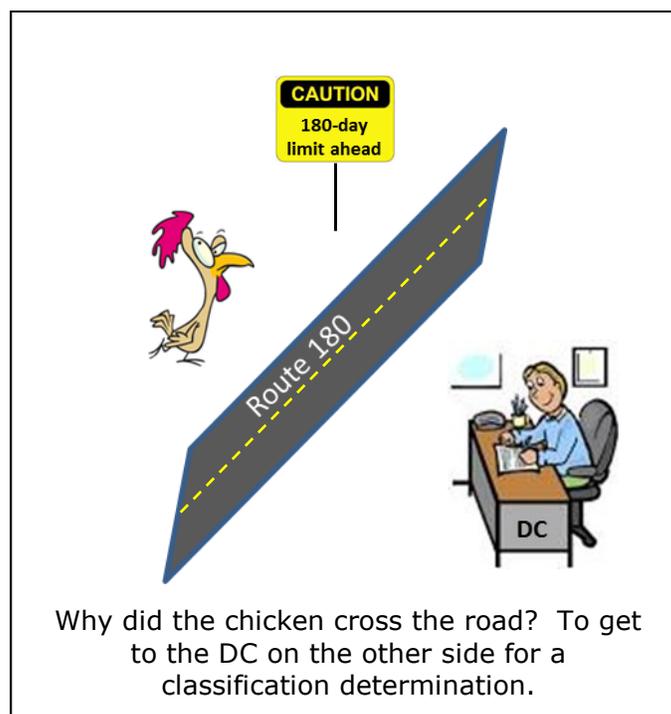
What Do Statistics Have To Do With Classification?

When many people think of statistics, they think of sports. Who had the best quarterback rating in 2013? Who had the best batting average in 2013? They might also think of the statistics for winning the lottery.

Statistics appear in classification too. What percentage did the stockpile decrease in a certain year? What is the circular error probability of a weapon?   For agencies with classification programs, the most common use of statistics will likely result from the Information Security Oversight Office's (ISOO) requirement to submit certain information on the classification of National Security Information (NSI) programs. Within DOE, the Office of Classification (OC) assists the Senior Agency Official (SAO) under E.O. 13526 by collecting and reporting information on the number of:

- original classifiers (including identifying information) and original classification decisions;
- derivative classification decisions;
- mandatory declassification review requests and appeals;
- automatic, systematic, and discretionary declassification reviews;
- self-inspections;
- challenges; and
- field element and Headquarters classification guides.

While some of these statistics may not apply to every program, derivative classification decisions apply to most. Each Classification Officer (CO) and Classification Representative (CR) is responsible for collecting the statistics for his or her program and submitting them to OC each year. The CO/CR determines the method his or her DCs use to report the number of classification decisions. Some COs/CRs for program areas that do not classify a significant number of documents record each decision at the time it is made (in many cases, the CO/CR is the one making the determination). Other COs/CRs have their DCs track all of their decisions and provide a report to the CO/CR at the end of the year. Another option is for the CO/CR to poll DCs for a specific period of time as the basis for an informed estimate of the annual number. Although not required for ISOO reporting, OC also tracks information on the number of Restricted Data and Formerly Restricted Data derivative classification and declassification decisions.

Since these statistics can be a key factor in making a number of important classification program-related decisions, the reports should be as accurate as possible. Report estimates that are too low may negatively impact decisions on the need for additional classification assets, while estimates that are too high may result in more documents requiring review during onsite evaluations and classification decision reviews than may be available. So, whatever method the CO or CR uses to determine derivative classification statistics, it is important that it be as accurate as possible.

Once the Departmental elements have submitted their individual reports, OC assists the SAO with preparing a single report for submission to ISOO. ISOO then compiles the information for all agencies, and it is released as part of the ISOO report to the President. The 2012 report and a link to previous reports can be found on the ISOO webpage at http://www.archives.gov/isoo/reports/. Annual reports show that original classification determinations have declined significantly and derivative classification decisions have increased significantly over the last few years. The significant increase in derivative classification may be due to new guidance from ISOO regarding reporting classification in the electronic environment.
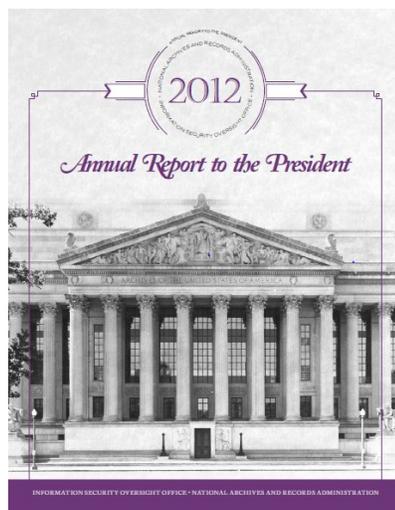
OC Tests Capability to Transmit Large FOIA and Mandatory Packages Online

The Office of Classification (OC) is working to transform its Freedom of Information Act (FOIA) and Mandatory Review process into a paperless process. A key aspect of this transformation involves digitally exchanging large packages of classified documents online, producing digitally redacted unclassified work packages, and returning them online as scanned images of the redacted printouts to the program office or field element that requested the review.

Over the last several months, we have been conducting trial tests of the Department's capability to send and receive large classified digital packages of documents within the complex. This testing, described in more detail below, proved the basic capability to transmit large classified files within the NNSA portion of the complex, in particular documents responsive to FOIA and Mandatory Review requests. Based on the success of this testing, OC will be reaching out to non-NNSA complex activities to determine which ones have access to the Enterprise Secure Network (ESN), with those identified activities invited to participate in classified and unclassified file transmission testing.

Test Procedure and Results

The conduit for the transmission of the large classified packages was the NNSA's classified ESN Big File Share (BFS, also known as Basic File Share). This conduit was successfully tested by initially transmitting a 1.7 GB standard test file from NNSA Albuquerque to OC. Follow-on tests were successfully conducted with the three national weapon laboratories (Sandia, Los Alamos, and Livermore), four NNSA production and test facilities (Pantex, Y-12, Kansas City Plant, and Nevada), the respective NNSA field offices for these laboratories and production/test facilities, as well as with the Office of Secure Transportation. In all cases, the standard test file was successfully transmitted to OC. This testing proved the basic capability to transmit large classified files within the NNSA portion of the complex.

This capability was also used to transmit a large set of classified files to Lawrence Livermore National Laboratory for coordination of a classification review.

The time to upload and download the files through the ESN varied, with many taking as little as 30 minutes. Others ranged up to a few hours. The Department's Office of the Chief Information Officer is researching why some uploads/downloads took longer.

Concurrent with the classified file transmission testing, OC tested the transmission of a large collection of unclassified files (1.3 GB) through the unclassified NNSA SharePoint portal. This test was conducted to simulate the return of a large FOIA request that has undergone classification review and redaction of all classified information (again, these are scanned images of redacted printouts in accordance with DOE Order 475.2A). Nearly all of the NNSA field offices were able to receive the unclassified test article.

As these conduits are proven, they are being applied to reduce the time and expense in receiving documents, coordinating classification reviews, and distributing work products. Additionally, as a way to begin leveraging these expected benefits, OC has recently changed one of its major work products. For DOE FOIA request responsive documents received digitally online, OC is now returning a scanned image of the redacted, unclassified printout online to the requesting program office or field element.

OC has also begun discussions with other Government agencies to explore ways to pass classified documents digitally online. As these transmission conduits are proven, they will be applied in receiving online FOIAs and Mandatory Review response documents and in passing bracketed/redacted work products online to those agencies for further processing.

Office of Classification POC: David Hix at david.hix@hq.doe.gov.

Things To Come: U.K. Changes Levels Used
To Control Its Information (Policy Reform)

Across the pond, the United Kingdom (U.K.) is moving forward to consolidate its classified and controlled information into three levels: Official, Secret, and Top Secret.   The change, which is projected to start taking effect in the U.K. as early as April 2, 2014, is the first major revision of the U.K. classification system since 1945. One big question you may have is whether changes to the U.K. system will impact how the United States (U.S.) and the U.K. handle each other's information. While we cannot totally predict the outcome at this point (given that changes based on the reforms are still being incorporated into existing agreements), we have obtained some assurances from the U.K. government. Here is what we currently know.

First and foremost, both countries remain committed to protecting each other's classified information in accordance with standards that were mutually agreed to and accepted under the General Security Agreement signed on April 14, 1961, and amended December 19, 1983. **Additionally, military and civil nuclear information will <u>not</u> be included in this U.K. policy reform. Both countries will continue to use "Confidential" for ATOLL and ATOMIC information.**

Forthcoming changes to the U.K. classification system are as follows:

- The U.K. no longer classifies information as Confidential.
- The U.K. no longer classifies information as Restricted.
- U.K. OFFICIAL with a SENSITIVE caveat (i.e., OFFICIAL-SENSITIVE) will have the same protection standards as those currently applied to information that is U.K. RESTRICTED.
- The U.K. is introducing an OFFICIAL level that will address all information that is not otherwise covered by a U.K. classification level or the SENSITIVE caveat.

Based on these changes, the resulting equivalencies for U.S. and U.K. classified information are as follows:

IN THE U.S.	IN THE U.K.
TOP SECRET	TOP SECRET
SECRET	SECRET
CONFIDENTIAL	NO EQUIVALENT (The U.K. will protect U.S. Confidential at a level equivalent to U.K. Secret.)

Continue to handle U.K. information as usual until you receive new instructions.

In the meantime, if you happen to encounter documents marked with any of the U.K. markings changed by the reform or if you have questions, please bring them to our attention at (301) 903-7567 or outreach@hq.doe.gov.

Guidance Status
(Due to time needed to obtain concurrences on the CommuniQué, this section is current through 2/28/14)

Classification Guides (CG)

CG-ACN-2. Started discussions with DoD on revisions. Working group forming.

CG-ACTV-2. Started discussions on revisions. A working group will be formed.

CG-CB-3. Incorporates FCGR recommendations. Draft under internal review.

CG-CI-2. Program office developing draft. Will incorporate FCGR recommendations.

CG-ECP-1. *Joint DOE/NRC Classification Guide for the European Centrifuge Program.* Based on discussions at June Pentapartite Working Group meeting in London, HS-62 drafted guidance related to the keystone and presented it to the program office during Annual Inspection in August 2013. Draft guidance sent to program office 9/12/13.

CG-ES-1, Change 1/CG-ES-1A, Change 1. Awaiting Air Force FCGR recommendations. Will incorporate results from DoD within 60 days of receipt.

CG-GSP-1/CG-GSP-1A. *DOE Classification Guide for Graded Security Protection/Supplement.* Drafts of both guides being revised as a result of internal review.

CG-IGC-1, Change 3. Incorporating UCNI topics from ORO and other editorial corrections. Awaiting declassification determination before finalizing.

CG-IN-1, Change 3. IN reviewing revised draft.

CG-IND-2. Internal HS-60 concurrence.

CG-IND-2A. *Sigma 20 Annex to DOE Classification Guide for Improvised Nuclear Devices.* Will start development after approval of CG-IND-2.

CG-MC&A-1. *Classification and UCNI Guide for Nuclear Material Control and Accountability.* Reviewing comments received on second draft. Still awaiting comments from some working group members.

CG-MPCA-1, Change 2/CG-MPCA-1A, Change 2. Met with program office to discuss final draft on 1/16/14.

CG-MPP-3. Draft under internal review.

CG-NDEW-2, Change 2. Internal HS-60 concurrence.

CG-NMP-2, Change 5. Change 5 implements FCGR proposed revisions. HS-62 consolidating comments on draft change from field offices and will address each comment.

CG-NRI-1, Change 1. At DHS for review and comment.

CG-PD-1/CG-PD-1A. *Classification Guide for Proliferation Detection Technology/Supplement.* In development. Internal (HS-62) review complete; guides under revision.

CG-PGD-6. TNP-42 and FCGR recommendations implemented. HS-62 will create final draft to begin concurrence.

CG-RC-3. Waiting for input from program office.

Guidance Issued since Index 2014-01

Headquarters Guidance
CG-RER-1, Change 3. DOE Classification and UCNI Guide for Radiological Emergency Response (2/14/14)

Local Guidance
None

Bulletins
None

CG-RDD-2. Metadata has been updated. Guide ready for XML and technical QA.

CG-SIV-1. *Classification and UCNI Guide for Secure Intra-Site Vehicles.* Received draft from Sandia on 1/31/13. Under internal review.

CG-SMG-2. DHS currently drafting DHS-only guide. Once DHS-only guide is signed, DOE will cancel CG-SMG-2.

CG-SNS-1. *DOE/DoD/NASA Classification Guide for Space Nuclear Systems.* Draft received from program office. Restructuring and editing draft. Will replace TNP-33, TNP-47, CG-RP-1, CG-SNR-1, and CG-SRPS-1.

CG-SS-5. Draft guide transmitted to field and program classification officers on 1/21/14. Responses due 4/11/14.

CG-TSCM-1, Change 1. Guidance incorporating working group comments being drafted. Draft to be revised to incorporate TNP-49

CG-US-SILEX-2. U.S. only version published. HS-60 Director met with Australian Government official and the NRC on 10/8/13 to resolve comments.

Topical Classification Guides (TCG)

TCG-BTS-1 Change 3. Author addressing comments from field review.

TCG-NAS-2, Change 7. Incorporated topics from CG-SSP-1 Rescission and WNP-117. Sent to LANL and LLNL for review on 1/2/2013. Response received from LANL.

TCG-SAFF-3. XML and technical review completed. Author addressing technical review comments.

TCG-WI-2, Change 1. In development.

Guidance Status (continued)

TCG-WM-2, Change 1. Incorporated recommendations from FCGR and topics from GEN-17, WNP-116, WNP-141, and WNP-144.

TCG-WS-2. On hold awaiting results from Technical Evaluation Panel RD classification review.

TCG-WT-1, Change 10. Preparing draft for XML and technical review.

UCNI Topical Guidelines (TG)

TG-NNP-2. In development.

Classification Bulletins (TNP, WNP)

TNP-45. *Guidance for Project RAGNAROK.* Program communicated with HS-62 on 1/16/14 that the scope of the project has changed. The program office will be drafting new guidance to reflect this.

TNP-xxx. *ORNL Original Classification Determination.* Draft in internal review and concurrence.

WNP-142. *Update to the U.S. Nuclear Stockpile and Annual Dismantlement.* Waiting for authority to release from DoD.

WNP-146. *Nicknames.* Internal HS-60 concurrence.

WNP-147. *Nuclear Enterprise Assurance.* With NNSA (NA-12) for concurrence.

If you have any questions, contact Edie Chalk, Director, Office of Technical Guidance, at (301) 903-1185 or edie.chalk@hq.doe.gov.

NOTE: Please contact Sandy Dorsey for copies of guides at (301) 903-3688 or Sandy.Dorsey@hq.doe.gov.

PERSONNEL UPDATES
(Due to time needed to obtain concurrences on the CommuniQué, this section is current through 3/31/14)

WELCOME!
Donte F. Davis	CO for NA-26 (SRS)/NA-APM-1.4 (MOX)
Edwards N. Frost	CO for SPRPMO
John P. Gilmore	CO for ID
Robert S. Houck	CO for SR (Joint)
Betty L. Huck	PCO and CR for NE
Jayne B. Slack	CO for SR (Joint)
Maria D. Stanton	CR for IM-1

FAREWELL!
J. Roger Bowen	Alternate CR for IN (Retired)
Bryan S. Drouin	CO for NA-265 (MOX) (Retired)
Karl J. Hugo	CO for ID (stepped down)
Brian K. Robinson	CR for NE (stepped down)
George F. Stefani	CO for NRLFO (Retired)

COMMONLY USED ACRONYMS IN THIS COMMUNIQUÉ

CO   Classification Officer
CR   Classification Representative
CUI   Controlled Unclassified Information
DC   Derivative Classifier
DD   Derivative Declassifier
FRD   Formerly Restricted Data
HS-60 Office of Classification
IG   Inspector General
ISOO   Information Security Oversight Office
NSI   National Security Information
O   Order
OC   Office of Classification
OUO   Official Use Only
PCO   Program Classification Officer
UK   United Kingdom
US   United States

Got an idea for an article? We'd love to hear from you! Please contact Mary Deffenbaugh at mary.deffenbaugh@hq.doe.gov.