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**JM CHRONOLOGY**

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MEMORANDUM FOR INGRID KOLB  
DIRECTOR  
OFFICE OF MANAGEMENT

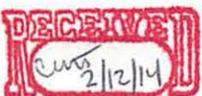
THRU: KEVIN T. HAGERTY  
DIRECTOR  
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FROM: GLENN S. PODONSKY  
CHIEF HEALTH, SAFETY AND SECURITY OFFICER  
OFFICE OF HEALTH, SAFETY AND SECURITY

SUBJECT: Notice of Intent to Revise Department of Energy (DOE) Order 475.2A,  
*Identifying Classified Information*

**PURPOSE:** Revision of DOE Order 475.2A to incorporate changes that were identified during the 1-year review after initial issuance that is required by DOE Order 251.1C, *Departmental Directives Program*.

**JUSTIFICATION:** DOE Order 475.2A was issued on February 1, 2011, and establishes the program within DOE to identify information classified under the Atomic Energy Act (Restricted Data, Formerly Restricted Data, and Transclassified Foreign Nuclear Information) and Executive Order (E.O.) 13526 (Classified National Security Information). The Order applies to all Departmental elements that generate classified information, documents, or material. Prior to the one-year anniversary date, classification officials in Headquarters and field elements reviewed the Order and recommended changes. Additional changes were identified while reviewing the preliminary findings of the DOE Inspector General's (IG) congressionally mandated inspection of the DOE National Security Information classification program. The Office of Classification reviewed the recommendations and determined that the Order must be changed to update organizational structures and responsibilities, to align the Order with current policies and practices for reviewing documents and appointing classification officials, to clarify the process for classification challenges, to more accurately reflect requirements for classification oversight as currently conducted, and to address IG recommendations. This directive meets the national requirements of 10 CFR 1045, Nuclear Classification and Declassification, and E.O. 13526 for DOE to publish implementing directives for its classification program.



**SUMMARY OF DEVELOPMENT PROCESS:** The Office of Classification drafted changes to the Order and presented, discussed, and validated them at the Classification Officer’s Technical Program Review Meeting in April, 2013 and subsequent WebEx discussions. The Office of Classification, with assistance from subject matter experts from the National Nuclear Security Administration (NNSA), the Office of Science, the Office of Environmental Management, and the Office of Intelligence and Counterintelligence; then categorized the changes and analyzed them in accordance with the Enterprise Risk Management (ERM) process. The ERM identified the risk associated with changes to the Order and concluded that the majority of changes carry a “Significant” risk level. For example, ensuring that classifiers and declassifiers have the appropriate authority, guidance, and knowledge of policies and procedures to ensure that documents are classified and declassified correctly; that classified information is not released inappropriately; that adequate resources are provided to implement the program as well as access to senior management to resolve any issues; and that oversight reviews are conducted to assess the effectiveness of the classification program and ensure that national requirements are met.

A draft of the revised order will be developed with input from the Classification Officers from DOE and NNSA field sites and Classification Representatives for the affected program offices and discussed during an HS-61 hosted WebEx. Additional WebEx meetings will be conducted as necessary to obtain agreement within the classification community prior to submittal into RevCom. The goal for processing the required changes to this directive is 150 days.

**MAJOR CHANGES:** The proposed changes, while not considered major, will address identified risks as noted above and in the ERM that can be more effectively addressed in the revised Order.

**IMPACT:** The proposed directive does not create undue burden on the Department. The revisions to the Order will have minimal operational or resource impact since the program to identify classified information is a mature program (in effect for over 60 years), and the resources to implement the program are currently in place.

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**OPI/OPI CONTACT:** Office of Health, Safety and Security, Nick Prospero, HS-61, 301-903-9967  
Ingrid Kolb, Director, Office of Management (MA-1):

Concur:  Nonconcur: \_\_\_\_\_ Date: 3-6-14

**Standard Schedule for Directives Development: Days**

Draft Development	Up to 60 days
Review and Comment (RevCom)	30
Comment Resolution	30
Final Review	30
Total	150

# Risk Identification and Assessment

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The changes to DOE Order 475.2A, Identifying Classified Information, have been grouped into the following categories: 1) Clarifications, 2) Consistency, 3) Flexibility, 4) Oversight Improvements, 5) New Policy, and 6) Incorporating Current Practice. Administrative changes and corrections are not addressed in this assessment.

1. Clarifications: No changes to requirements, but refined language based on questions received and feedback from the field to ensure consistent understanding of requirements. Examples – clarified oversight responsibilities of Program Classification Officer (PCO), clarified meaning of operational awareness, added tables for quick reference.
2. Consistency: Ensured Order and CRD reflect national policies and that appropriate responsibilities under the Order are reflected in the CRD. Removed duplication of requirements. Examples – removed requirement from CRD for contractors to incorporate classification in performance plans, incorporated commingled marking requirements, made requirements for classification decision reviews in self-assessment and annual review consistent, incorporated Director, National Intelligence authority for Intelligence Community markings.
3. Flexibility: Based on questions received and feedback from HQ and field, added authorities. Examples - Added PCO and Classification Representative (CR) authority to delegate responsibilities, included supervisor in termination of authority, permit Derivative Classifiers (DCs) to review certain extracts.
4. Oversight Improvements: To improve implementation and reporting of self-assessments and inspections to ensure classification program effectiveness. Examples - Increase responsibilities of PCO and Field Element Classification Officer (CO), included both in the notification/concurrence chains for reports, addressed oversight of Field Intelligence Elements.
5. New Policy: Added to strengthen classification programs. Examples - Requirement for sufficient staffing, PCOs and COs must be in a position to have access to senior management, Office of Classification to appoint COs as DCs, refresher training for all classification officials, addressed use of other-agency classification guidance, and clarified procedures for classification challenges.
6. Incorporated Current Practice: Incorporated existing practices. Examples - Alternate Headquarters CRs, procedures for classification guidance.

The attached table provides the details of the revisions to the order organized by the above categories and indicates the corresponding Risk associated with the change.

**Table 1: Risk Analysis for Revision to DOE Order 475.2A by Category**

The following table analyzes the risks for each category. N/A indicates a risk did not apply to any changes within that category. To identify the risk for each individual change, refer to the attached table.

Risk		Probability	Impact	Risk Level
<b>People</b>				
P1. Employees with clearances and classification officials may be uncertain as to the scope of their authorities, responsibilities, or the proper procedure causing confusion and loss of productivity.	<i>Clarification</i>	Likely	Low	Moderate
	<i>Consistency</i>	Likely	Low	Moderate
	<i>Flexibility</i>	N/A	N/A	N/A
	<i>Oversight Improvement</i>	N/A	N/A	N/A
	<i>New Policy</i>	Likely	Low	Moderate
	<i>Incorporate Current Practice</i>	Possible	Low	Moderate
P2. Program degrades due to lack of DCs.	<i>Clarification</i>	N/A	N/A	N/A
	<i>Consistency</i>	N/A	N/A	N/A
	<i>Flexibility</i>	N/A	N/A	N/A
	<i>Oversight Improvement</i>	N/A	N/A	N/A
	<i>New Policy</i>	Possible	Medium	Significant
	<i>Incorporate Current Practice</i>	N/A	N/A	N/A
<b>Mission</b>				
M1. Employees with clearances and classification officials will be unaware of mistakes and the classification program will degrade, increasing the risk of misidentification and compromise of classified information.	<i>Clarification</i>	Likely	Medium	Significant
	<i>Consistency</i>	N/A	N/A	N/A
	<i>Flexibility</i>	N/A	N/A	N/A
	<i>Oversight Improvement</i>	N/A	N/A	N/A
	<i>New Policy</i>	N/A	N/A	N/A
	<i>Incorporate Current Practice</i>	N/A	N/A	N/A
M2. Employees and classification officials may lack authority, guidance, or knowledge of current	<i>Clarification</i>	Likely	Medium	Significant
	<i>Consistency</i>	Likely	Medium	Significant

Risk		Probability	Impact	Risk Level
policies resulting in inappropriate authorities, determinations, or incorrect markings.	<i>Flexibility</i>	N/A	N/A	N/A
	<i>Oversight Improvement</i>	N/A	N/A	N/A
	<i>New Policy</i>	Likely	Medium	Significant
	<i>Incorporate Current Practice</i>	Possible	Medium	Significant
M3. Classified documents are not identified correctly (e.g., not marked as classified or marked at lower level/category)	<i>Clarification</i>	Likely	Medium	Significant
	<i>Consistency</i>	N/A	N/A	N/A
	<i>Flexibility</i>	N/A	N/A	N/A
	<i>Oversight Improvement</i>	N/A	N/A	N/A
	<i>New Policy</i>	N/A	N/A	N/A
	<i>Incorporate Current Practice</i>	N/A	N/A	N/A
M4. Classified documents are released inappropriately.	<i>Clarification</i>	Unlikely	High	Significant
	<i>Consistency</i>	N/A	N/A	N/A
	<i>Flexibility</i>	N/A	N/A	N/A
	<i>Oversight Improvement</i>	N/A	N/A	N/A
	<i>New Policy</i>	N/A	N/A	N/A
	<i>Incorporate Current Practice</i>	N/A	N/A	N/A
M5. Classification challenges are not received, reviewed appropriately, or acted upon in a timely manner.	<i>Clarification</i>	Rare	High	Moderate
	<i>Consistency</i>	Rare	High	Moderate
	<i>Flexibility</i>	N/A	N/A	N/A
	<i>Oversight Improvement</i>	N/A	N/A	N/A
	<i>New Policy</i>	Possible	High	Extreme
	<i>Incorporate Current Practice</i>	N/A	N/A	N/A
M6. National requirements are not satisfied.	<i>Clarification</i>	Likely	Medium	Significant
	<i>Consistency</i>	Likely	Medium	Significant
	<i>Flexibility</i>	N/A	N/A	N/A
	<i>Oversight Improvement</i>	N/A	N/A	N/A
	<i>New Policy</i>	N/A	N/A	N/A
	<i>Incorporate Current Practice</i>	Possible	Medium	Significant

Risk		Probability	Impact	Risk Level
<b>Assets</b>				
A1. Classification programs degrade due to lack of resources or access to senior management.	<i>Clarification</i>	Likely	Medium	Significant
	<i>Consistency</i>	N/A	N/A	N/A
	<i>Flexibility</i>	Likely	Medium	Significant
	<i>Oversight Improvement</i>	N/A	N/A	N/A
	<i>New Policy</i>	Likely	Medium	Significant
	<i>Incorporate Current Practice</i>	N/A	N/A	N/A
A2. Classification programs degrade or issues are not addressed due to lack of oversight.	<i>Clarification</i>	Likely	Medium	Significant
	<i>Consistency</i>	Likely	Medium	Significant
	<i>Flexibility</i>	N/A	N/A	N/A
	<i>Oversight Improvement</i>	Likely	Medium	Significant
	<i>New Policy</i>	Likely	Medium	Significant
	<i>Incorporate Current Practice</i>	Likely	Medium	Significant
A3. Classified information may be compromised or inappropriately denied to the public.	<i>Clarification</i>	Unlikely	High	Significant
	<i>Consistency</i>	Unlikely	High	Significant
	<i>Flexibility</i>	N/A	N/A	N/A
	<i>Oversight Improvement</i>	N/A	N/A	N/A
	<i>New Policy</i>	Unlikely	High	Significant
	<i>Incorporate Current Practice</i>	Unlikely	High	Significant
<b>Financial</b>				
F1. Classification programs lack resources or flexibility to adequately review and identify classified information or conduct oversight.	<i>Clarification</i>	N/A	N/A	N/A
	<i>Consistency</i>	N/A	N/A	N/A
	<i>Flexibility</i>	N/A	N/A	N/A
	<i>Oversight Improvement</i>	N/A	N/A	N/A
	<i>New Policy</i>	Likely	Medium	Significant
	<i>Incorporate Current Practice</i>	Likely	Medium	Significant
<b>Customer and Public Trust</b>				

Risk	Probability	Impact	Risk Level	
C1. Without emphasis on DOE's commitment to openness and to public access to declassified documents, the public may have less confidence in the trustworthiness of DOE's classification system.	<i>Clarification</i>	N/A	N/A	N/A
	<i>Consistency</i>	N/A	N/A	N/A
	<i>Flexibility</i>	N/A	N/A	N/A
	<i>Oversight Improvement</i>	N/A	N/A	N/A
	<i>New Policy</i>	Possible	Medium	Significant
	<i>Incorporate Current Practice</i>	N/A	N/A	N/A

**Table 2: Gap Analysis of Existing Risks and Controls**

Type of Control	Control	Gap Analysis
Laws	Atomic Energy Act of 1954 - Provides broad authority for the classification of nuclear-related information	<ul style="list-style-type: none"> <li>Does not provide implementing instructions</li> </ul>
Executive Orders	Executive Order 13526, Classified National Security Information - Provides authority for classifying NSI	<ul style="list-style-type: none"> <li>Does not address RD/FRD</li> <li>Does not provide DOE-specific instructions</li> <li>Some inconsistencies with RD/FRD process</li> </ul>
External Regulation	32 CFR Part 2001, Classified National Security Information, Final Rule - Provides authority for classifying NSI	<ul style="list-style-type: none"> <li>Does not address RD/FRD</li> <li>Does not provide DOE-specific instructions</li> <li>Some inconsistencies with RD/FRD process</li> </ul>
DOE Regulation	10 CFR Part 1045, Nuclear Classification and Declassification - Provides authority for classifying RD and FRD	<ul style="list-style-type: none"> <li>Does not address NSI</li> <li>Does not provide DOE-specific instructions</li> <li>Some inconsistencies with NSI process</li> </ul>
DOE Orders	DOE Order 475.2A, Identifying Classified Information <ul style="list-style-type: none"> <li>Consolidates requirements for RD/FRD/TFNI/NSI</li> <li>Sets DOE standards not covered in E.O. 13526, 32 CFR Part 2001, and 10 CFR Part 1045</li> <li>Assigns classification roles and responsibilities</li> <li>Establishes consistent procedures for RD/FRD/TFNI/NSI where possible</li> </ul>	Based on recent inspections and assessments <ul style="list-style-type: none"> <li>Not all requirements and responsibilities are adequately conveyed to DOE personnel</li> <li>Line management is not sufficiently engaged in oversight</li> <li>Not all current practices are incorporated into the Order</li> <li>Program requested increased flexibility in meeting certain requirements</li> <li>Does not sufficiently address DOE commitment to openness</li> </ul>
Contract Controls	N/A	
Internal Assessments	<ul style="list-style-type: none"> <li>Office of Classification on-site Inspections and annual inspection report to the Information Security Oversight Office (ISOO)</li> <li>DOE Inspector General Report on Classification</li> </ul>	N/A
External Assessments	ISOO - Assessment of DOE Classification Program conducted periodically	N/A

**Table 3: Risk Mitigation Techniques**

Risk Assessment for DOE Order 475.2A, Identifying Classified Information					
Risk/Opportunity	Risk Level	Potential Cost/Benefit	External Control(s)	Proposed Mitigation Technique	Internal Control (if needed)
Not all requirements and responsibilities are adequately conveyed to DOE personnel	Moderate to Significant	Greater consistency, less time and resources spent in determining proper implementation	Atomic Energy Act, 10 CFR Part 1045, E.O. 13526, 32 CFR Part 2001	Coordinate revision with COs and CRs to ensure clarity and revise DOE Order	Conduct and review inspections, review self-assessments and questions to subject matter experts to ensure policies are clear and implementation is consistent
Line management is not sufficiently engaged in oversight.	Significant	Improved oversight, better awareness of and responsiveness to classification issues	Atomic Energy Act, 10 CFR Part 1045, E.O. 13526, 32 CFR Part 2001	Revise DOE Order to ensure CO has access to management and increase oversight responsibilities of PCO	During inspections and self-assessments, review management accessibility, awareness, and involvement in classification program
Not all current practices are incorporated into the Order	Moderate to Extreme	Improved clarity and consistency in classification	Atomic Energy Act, 10 CFR Part 1045, E.O. 13526, 32 CFR Part 2001	Coordinate revision with COs , CRs and Office of Classification staff to ensure all appropriate procedures are incorporated into Order	
Program requested increased flexibility in meeting certain requirements	Significant	Greater efficiency and improved use of resources	Atomic Energy Act, 10 CFR Part 1045, E.O. 13526, 32 CFR Part 2001	Coordinate revision with COs and CRs to ensure requirements	

Risk Assessment for DOE Order 475.2A, Identifying Classified Information

Risk/Opportunity	Risk Level	Potential Cost/Benefit	External Control(s)	Proposed Mitigation Technique	Internal Control (if needed)
Does not sufficiently address DOE commitment to openness	Extreme	Increased public trust in DOE classification program and improved responsiveness by DOE to public requests for review of classified information	Atomic Energy Act, 10 CFR Part 1045, E.O. 13526, 32 CFR Part 2001	<p>permit sufficient flexibility</p> <p>Add language to order to confirm DOE commitment to openness, provide greater detail for classification challenges to ensure timely response, more clearly address FOIA/MDR requirements.</p>	