



From the Classification Director's Office

In light of the current economic challenges facing the Government, I am once again called to encourage everyone to take a critical look at our approach to classification. It is crucial for us to ensure that the information we protect is truly sensitive, so the Department can focus its finite security assets with maximum effectiveness. The question that continues to weigh on me is whether we are still protecting some information that may have lost its classification relevance over time.

Certainly, we are justifiably concerned about risk. Congress recognized that the protection of key information on nuclear weapon design and technologies for producing Special Nuclear Material is vital to our national security and mandated protection of this critical information when it passed the Atomic Energy Act (AEA) allowing this highly sensitive information to be effectively safeguarded as Restricted Data. The events of September 11, 2001, again reminded us of the importance of ensuring that terrorists and others who want to harm the United States cannot obtain such sensitive information. *(Continued on page 2)*

Fundamental Classification Guidance Review

Activities for the NSI Fundamental Classification Guidance Review (FCGR) kicked off during the Fall of 2010. The 2,700 NSI topics were grouped into 37 different bins for consideration by Working Groups. The Working Groups are composed of subject matter experts from DOE/NNSA HQ, field sites, and from other Government Agencies.

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Upcoming Events 2012



- April 24-26 CO Technical Program Review Meeting
- June 5 General Course for Derivative Classifiers
- June 18-22 Overview of Nuclear Weapons Classification Course
- August 1 General Course for Derivative Classifiers

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

Special points of interest:

- How will the Fundamental Classification Guidance Review affect DCs/DDs? - see page 4
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Although the AEA is our tool for protecting this critical nuclear information, it also calls out that some portion of RD will not always require protection and tasks us to conduct continuous reviews to keep the information we protect relevant to the times.

We believe that a continuous review of information for declassification will ensure that we are not wasting valuable resources trying to protect information if it no longer has value to or cannot be easily exploited by a potential proliferator. Not only does this type of systematic review make sense economically, but it is also required by statute and regulation to keep our classification system up to date.

We must also remember that DOE has a unique responsibility to safeguard important nuclear weapon information. Unlike information classified as NSI, declassification of RD information is a one-way street such that we cannot reverse our declassification decisions at a later date. This heightens the importance of our decision-making process and is why we seek expert opinions from the labs on highly technical issues.

To that end, the Office of Classification has initiated an effort to systematically review guides to identify recommendations for the potential declassification of RD. This effort was facilitated by a revision to the Technical Evaluation Panel (TEP) charter that occurred last year, and the kick-off took place at the TEP meeting held at SNL/NM on December 6-8, 2011. Changes to the TEP charter will help to ensure more frequent meetings (i.e., the goal is three per year). Conducting a thorough examination of our RD information will allow us to better balance the benefits of protection against the costs of continued classification through strategic declassification of information that does not reveal the key/core concepts that must be protected to accomplish U.S. security and nonproliferation goals.

Although the systematic RD review will be a predominant feature of future TEP meetings, sites and laboratories are encouraged to continue submitting declassification proposals on individual issues to be presented to the TEP. For additional information on TEP activities and

details on submitting individual declassification proposals, please take a look at the article "TEP Status Update" on page 3.

In addition to assisting the TEP with systematic reviews for the declassification of RD, the Office of Classification has also been conducting a Fundamental Classification Guidance Review (FCGR) of NSI topics as required by Executive Order 13526. The status of these activities is detailed in the article, "Fundamental Classification Guidance Review." While systematic reviews to declassify information have always been required within the Department, I am hoping that this increased emphasis on these activities will help promote public confidence in our goal to ensure that information isn't being overclassified.

I am very interested in all perspectives related to classification problems and methods to decrease overclassification. To that end, I e-mailed a copy of the "Brennan Center Report on Overclassification" to all COs, PCOs, and CRs on November 3, 2011, to provide an outside perspective on these issues and invited their feedback. While we do not fully agree with the report's conclusions, there are ideas that deserve our study and consideration within DOE.

My goal is to foster these kinds of discussions within the classification community, and I welcome any suggestions that the sites/laboratories have for improving the DOE classification program (to include identifying information that no longer warrants classification protection).

If you have any questions, please contact me at (301) 903-3526 or at andrew.weston-dawkes@hq.doe.gov.

[NOTE: Declassification of a piece of information means changing the classification policy concerning that information. Such declassification is typically implemented by a new or revised topic in classification guidance. The declassification of information should not be confused with the declassification of documents. When documents are declassified, policy is not being set; it is merely being followed.]

Fundamental Classification Guidance Review continued from pg. 1

Action Officers internal to HS-62 performed a preliminary analysis on each set of topics to assess whether each topic: (1) found its basis in another topic (such as CG-SS-4 for topics relating to facility physical security), (2) was the equity of another Agency, (3) was purely situational (e.g., "Classify based on information revealed"), or (4) required more in-depth analysis. Working Groups then identified the keystone for each topic and, where possible, reworded topics and declassification instructions for clarity. The majority of Working Group activities have concluded, and summary reports for the 37 different bins are being drafted. Some topics will be recommended for deletion. In some cases, the Working Groups have identified the need for additional topics to help narrow the scope of existing topics. Two guides have already been canceled (CG-RWT-1 and CG-OCRWM-1), with more cancellations expected (see article on page 6).

As Working Group recommendations are

approved (by HS-60 and HS-1) and as guidance is re-written, much of the analysis will be reflected in the metadata for the topics in xCGS. Basis links will also be captured in the metadata to aid in the identification of affected topics when a basis topic requires revision. In addition, any information that should be exempt from declassification at 50 years [i.e., the identification of a confidential human source or a human intelligence source (50X1-HUM) and the key design concepts of weapons of mass destruction (50X2-WMD)] must be identified. These proposed changes, along with additional revisions in declassification guidance, will be reflected in CG-HR-4 and must be provided to ISOO for approval by the ISCAP by July 2012.

E.O. 13526 requires that each agency complete the FCGR and issue a detailed report (including a version available to the public) by June 29, 2012. The Office of Classification is on track to meet these requirements. Review of Working Group recommendations by HS-60 and HS-1 has begun and will continue into Spring. Guidance revisions will commence upon approval by HS management.

Technical Evaluation Panel (TEP) Status Update

A TEP meeting was conducted at SNL/NM on December 6-8, 2011, to discuss potential declassification proposals. This meeting focused on the review of basic areas of RD design for gun-assembled devices and implosion-assembled primaries. Minutes from this meeting were approved at the next meeting conducted March 8-9, 2012, and formal recommendations from the TEP Chairman will be sent to the Director, Office of Classification.

The Office of Classification will: (1) draft formal declassification proposals based on the TEP recommendations, (2) brief all equity owners, (3) coordinate endorsement by the

program office, and (4) submit to the Senior Agency Official for approval. Based on revisions to the TEP charter, one to two additional meetings are anticipated this year.

Sites and laboratories can submit declassification proposals for TEP discussion as they always have by addressing the six presumptions for classification and declassification from 10 CFR 1045.16. Review and coordination of these proposals will continue as it has in the past.

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

How will the Fundamental Classification Guidance Review Affect me as a DC or DD?

Executive Order (E.O.) 13526 requires that each agency complete a Fundamental Classification Guidance Review (FCGR) of information classified as NSI. Agencies must assess whether their information conforms to current standards for classification and determine if the level and duration (i.e., declassification instruction) are appropriate. They must also issue a detailed report (including an unclassified version for the public). The results of the FCGR may impact the guidance that you use to conduct reviews as a DC or DD.

For example, two classification guides have already been canceled. Please see the article, "What Happens if my Classification Guide is Canceled—a Case Study Based on CG-RWT-1 and CG-OCRWM-1" for more information about these guides. Other changes possible in the future include:

- more referral topics for other agency NSI equities;
- Transclassified Foreign Nuclear Information (TFNI) designation for some raw intelligence information on certain foreign nuclear programs;
- different declassification instructions (e.g., [50X1-HUM] and [50X2-WMD]);
- fewer topics with exemptions from 25-year declassification;
- deletion of topics if no longer needed;
- addition of some topics for clarity (i.e., where the initial topic may have been too broad); and
- revision of some CG-HR-3 topics to reflect other agency referrals and information that is no longer exempt from 25-year automatic declassification.

The FCGR will have added benefit for reviewers who use the electronic Classification Guidance System (xCGS) and have the capability to access knowledge metadata associated with the guide topics. This metadata typically explains the classification concept (i.e., "keystone") being protected by a topic and the reason why the concept is classified, or for "U" topics why it

is unclassified. Other useful information shown in the metadata can include: how a particular topic has evolved over time; the basis link for the topic (i.e., the topic it was derived from); identification of other related topics; and examples of how the topic has been applied in the past (i.e., "case law"). As Working Group recommendations are approved by HS-60 and HS-1 and as guidance is re-written, much of the analysis generated from the FCGR will be reflected in the metadata for the topics in xCGS providing reviewers with a much broader understanding of why the topic is classified and how it should be applied.

In the interim, there will be minimal change to the procedures currently being used by DCs and DDs. DCs will still apply the declassification instructions found in current classification guidance unless the information is believed to be TFNI (as described below) or the topic falls under a topic with a "25X1-HUM" instruction (see attached Policy Bulletin 5 for direction on using "50X1-HUM"). Documents containing information suspected of being TFNI must be referred to the CO/CR who will confer with the Office of Classification. DDs reviewing older documents might be impacted if their documents are 50 years old or older and have a 25X declassification instruction with a 50-year duration (i.e., [25Xn; 50]) that has already passed. If the declassifier believes that the information may still be sensitive, then the CO/CR should be notified and will contact the Office of Classification as necessary.

If you have any questions about the FCGR, please contact Edith A. Chalk at (301) 903-1185.

Note: TFNI is raw intelligence information on certain foreign nuclear programs. Although documents containing TFNI are handled and protected as NSI, they are never automatically declassified and have special marking requirements. Please keep in mind that the following information can never be TFNI: U.S. information that is classified as RD; information obtained through Intergovernmental Agreements (e.g., Agreements for Cooperation or URENCO); and analysis of TFNI using RD knowledge.



What exactly does Controlled Unclassified Information (CUI) mean?

There has been some confusion about the term CUI since it has been used as an overarching term for two different programs. The first use is as a term that applies to all unclassified information that is currently controlled within DOE as Unclassified Controlled Nuclear Information (UCNI) or Official Use Only (OUO). The second use of the term applies to the Government-wide standard that is being developed in accordance with Executive Order (E.O.) 13556, *Controlled Unclassified Information*. The Government-wide CUI program is still being developed, and target dates for implementation have not even been established.

When will the CUI framework under E.O. 13556 take effect?

The Information Security Oversight Office (ISOO) issued the first implementing notice under E.O. 13556 in June. This notice is very broad in nature because policies concerning safeguarding, marking, and decontrol are still being developed. Eventually, OUO and UCNI will be incorporated into the CUI framework under the E.O. However, this will not occur for at least 2 years.

If you have any questions concerning CUI, please contact Lesley Nelson-Burns at (301) 903-4861 or Lesley.nelson-burns@hq.doe.gov.

Exemption 2 – No longer a basis for OUO!

Last March, the Supreme Court's ruling in *Milner v. Department of the Navy* significantly narrowed the scope of Exemption 2 so that it no longer applies to "circumvention of statute" information. Therefore, within DOE, the use of "Exemption 2, Circumvention of Statute" as a basis for protecting security-related information identified as OUO in classification guides is no longer valid, and the Office of Classification had to re-examine the basis for controlling the information.

Based on a review of the FOIA exemptions, the Office of Classification issued Policy Bulletin 4, Change 1, *Exemption 2 Guidance* (POL-4). POL-4 specifies that "Exemption 7, Law Enforcement" is to be used as the basis for any OUO guide topic that currently cites Exemption 2. POL-4 is an interim measure only. Guide topics are being revised in coordination with the Programmatic Elements that have responsibility for the OUO topics.

It is very important to note that POL-4 applies only to OUO determinations based on guidance and not to FOIA reviews or to OUO determinations outside of guidance. In such cases, the automatic replacement of Exemption 2 with Exemption 7 is not appropriate. For any FOIA denial that would have previously cited Exemption 2, all other FOIA exemptions must be examined to determine what, if any, other exemptions apply. The same must be done for OUO determinations outside of guidance (i.e., discretionary determinations made in accordance with the requirements from DOE O 471.3 Chg 1 and DOE M 471.3-1 Chg 1).

If you have any questions about using any of the exemptions for an OUO determination, please contact Lesley Nelson-Burns at (301) 903-4861 or Lesley.nelson-burns@hq.doe.gov.



What Happens if my Classification Guide is Canceled— a Case Study Based on CG-RWT-1 and CG-OCRWM-1

Department of Energy Order 475.2A, *Identifying Classified Information*, requires derivative classifiers and declassifiers to base their determinations on written guidance (e.g., classification guides). As a result of the FCGR, two guides have already been canceled (e.g., CG-RWT-1* and CG-OCRWM-1*). As a DC or DD, what should you do if this happens to a guide that you use?

First, and foremost, don't panic (a useful rule in most situations). The cancellation of a particular guide doesn't mean that other guidance isn't available. Guides could be canceled for a couple of reasons. For example, CG-RWT-1 and CG-OCRWM-1 were canceled because the program was no longer active, and the classification guidance was no longer current since it had not been evaluated against the new Graded Security Protection plan. Therefore, any historical documents that were classified based on these guides would need to be referred to the originating organization or agency for classification review prior to declassification or downgrading. Within DOE, CG-SS-4, *Classification and UCNI Guide for Safeguards and Security Information*, contains applicable guidance. Even though CG-RWT-1 and CG-OCRWM-1 were canceled, they can still be used as guidelines for making discretionary OIU determinations. These determinations are made in accordance with the requirements specified in agency directives (DOE O 471.3 Chg 1 and DOE M 471.3-1 Chg 1), and the guides identify specific

areas that the programmatic element previously determined to be OIU.

Another reason guides could be canceled is if the topics in them are the equities of other agencies. For example, some guides that contain mainly DoD topics are being evaluated for cancellation. The decision to cancel these guides won't be made until after the appropriate agencies have completed the FCGR process for their own topics and have requested any applicable "50X" exemptions. The DOE program element's ability to help with "linking" DOE topics to the correct other-agency topics will be a key factor in determining whether these guides will continue to be maintained as DOE guides. If these guides are canceled, DCs and DDs would rely on other-agency guidance, as they currently do when conducting work for others.

When guidance is canceled, individuals who were on distribution are notified by the Office of Technical Guidance. In all cases, if you don't know what guide to use, you should contact your Classification Officer or Classification Representative. The Office of Technical Guidance is available to assist these individuals with guidance-related questions.

* **CG-RWT-1.** *Joint DOE/NRC/DOT/DHS Classification and Sensitive Unclassified Information Guide for the Transportation of Radioactive Waste to Yucca Mountain and CG-OCRWM-1, Joint DOE and NRC Sensitive Unclassified Information and Classification Guide for the Office of Civilian Radioactive Waste Management Program*

PERSONNEL UPDATES

Welcome

Thomas D. Anderson, PCO, EM
 David L. Aron, CO, LSO
 Bryan S. Drouin, CO, PDF/MFFF at SRS
 Reece C. Edmonds, PCO and CO, NNSA
 Teresa D. Fancher, CO, ETPP
 Howard G. Filler, PCO for SC HQ and SC-CH*
 David C. Gottholm, CO, OSTI
 Scott A. Hawks, CO, YSO
 Tod M. Henby, CO, FERC
 Beverly F. Jones, CO, Isotek
 Philip A. Knopp, CR, CF
 Roger A. Lewis, CR, NA-10
 Corey A. Low, CO, ORP
 Lawrence M. Sparks, PCO for SC ORO*

Jackie G. Thompson, CO, PDDP

* Performs PCO functions as specified in DOE O 475.2A for SC at specified elements. No change to existing CO functions.

Farewell

David C. Bellis, CO, OSTI
 Robert R. Cooke, Office of Technical Guidance, OC
 Harvey W. Lee, CO, LSO
 John F. Preston, CO, ETPP
 Emily A. Puhl, Office of Quality Management, OC
 Barbara Smith, Office of Technical Guidance, OC
 Colleen J. Winkler, CO, Paducah

Upcoming Classification Officers Technical Program Review Meeting

The Office of Classification will be hosting the 47th Annual Classification Officers Technical Program Review Meeting in Germantown in April. Last year approximately 95 people attended, representing the Department of Energy (DOE) and National Nuclear Security Administration (NNSA) laboratories, field offices, and production plants as well as a number of Headquarters organizations. This meeting provides a unique forum for Classification Officers and Representatives as well as other individuals within the classification office to share ideas and to learn about classification policy and guidance initiatives. Much of this information then gets promulgated to members of the extended classification community at various DOE/NNSA sites.

The meeting last year focused on a number of relevant DOE/NNSA issues. Some highlights were as follows:

Directives Reform and CUI Issues -

Mr. William A. Eckroade, Deputy Chief for Operations, Office of Health, Safety and Security (HSS)*, focused on the many safety and security reforms and the massive overhaul of HSS directives, which has involved the entire classification and security community. He also mentioned that issues concerning agency implementation of the Government-wide Controlled Unclassified Information program will need to be resolved before any changes will be made to existing requirements for Unclassified Controlled Nuclear Information and Official Use Only information. Mr. Eckroade concluded by expressing his confidence that the DOE classification community will resolve these issues properly.

NNSA Security Reforms - The NNSA Associate Administrator for Defense Nuclear Security, also offered his views on the security reforms taking place in the NNSA. The three main tracks of the Security Reform Initiative concern (1) reforming security policy, (2) reforming the Category I

Nuclear Security Program, and (3) improving the governance of the Federal and contractor security assessment programs. As far as the initiative goes, NNSA's vision is to have consistency across the complex, not uniformity. In the future, NNSA wants to be proactive in dealing with problems, rather than finding out about them during an assessment and then having to go back and fix them.

Classification and CUI - Several speakers from the Office of Classification covered current classification and control issues. Key topics included: (1) Controlled Unclassified Information, (2) key changes in national policy (e.g., special markings for Transclassified Foreign Nuclear Information (TFNI) and commingled documents), (3) classification and controlled guidance updates, (4) document reviews under Executive Order 13526, (5) classification marking in the electronic environment, (6) the Fundamental Classification Guidance Review, and (7) classification program evaluations. Additional briefings were provided by individuals from the following organizations: NNSA

Deputy Under Secretary for Counterterrorism and the Security Operations Division, HSS Office of Security Policy, DOE Records Management Division in the Office of the Chief Information Officer, and DOE Office of Intelligence and Counterintelligence.

Several briefings were also provided by individuals within the field classification community concerning lessons learned and the demonstration of an exam generator for DC testing used by Los Alamos National Laboratory. The topic "Classification by Association - How Far is too Far?" elicited a lively discussion by the attendees.

Keynote Speakers — Keynote speakers were Mr. Michael German, Policy Counsel for the American Civil Liberties Union, and Mr. Greg A. Pannoni, Associate Director, Operations and



* Mr. Eckroade's current title is Principal Deputy Chief for Operations, Office of Health, Safety and Security.

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Upcoming Classification Officers Technical Program Review Meeting (continued from previous page)

Industrial Security, Information Security Oversight Office. They discussed the importance of strengthening the Government's safeguarding and counterintelligence postures to enhance the protection of classified National Security Information. Mr. Pannoni also stressed the importance of agencies conducting self-assessments of their counterintelligence, information assurance, and security postures to identify any weaknesses in safeguarding classified information.

While these meetings are chock—full of relevant issues, it's not all "work and no play." Each year, a member of the field or contractor classification community is recognized for his or her exceptional contributions to the DOE

classification program by being chosen to receive the "Award of Excellence." Last year was particularly exciting as there were two deserving recipients of this award – Vernon M. Gardner from the Savannah River Operations Office and William W. Plummer from Sandia National Laboratories/New Mexico.

The meeting this year promises to be equally informative and eventful. We look forward to seeing many of you there! If you would like a copy of the CO Meeting minutes or slides for any of the unclassified briefings given at the last meeting, please contact the Office of Classification Outreach Program at (301) 903-7567 or outreach@hq.doe.gov.



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

COMMONLY USED ACRONYMS IN THIS COMMUNIQUÉ

CO	Classification Officer	OC	Office of Classification (HS-60)
CR	Classification Representative	PCO	Program Classification Officer
CUI	Controlled Unclassified Information	TFNI	Transclassified Foreign Nuclear Information
DC	Derivative Classifier	UCNI	Unclassified Controlled Nuclear Information
DD	Derivative Declassifier		
OUO	Official Use Only		

Guidance Status

Classification Guides (CG)

CG-CI-1, Change 2. E.O. 13526 update; being prepared for concurrence.

CG-DR-1, Change 5. In development.

CG-FULL TOSS-1. Draft guide provided to program office (NA-22) in Spring 2009. Awaiting input.

CG-ICF-6. Program office has concurred. Final round of comments are being incorporated.

CG-IN-1, Change 3. E.O. 13526 update; being prepared for concurrence.

CG-IND-2. Revision is currently in development. Guide will no longer be restricted access, but annex will be. Sensitive but non-Sigma 20 information in CG-IND-1 will also be moved to annex. Incorporating comments from program office (NA-47).

CG-LCP-4B. DOE removed as signatory. Now issued as an NRD guide.

CG-MOX-1. Draft being revised based on meetings with MOX Services and NNSA.

CG-MOX-1A. In development.

CG-MPCA-1A, Change 2. E.O. 13526 update; being prepared for concurrence.

CG-MPP-2, Change 1. E.O. 13526 update and incorporation of WNP-135; being prepared for concurrence.

CG-MTI-1, Change 1. E.O. 13526 update; being prepared for concurrence.

CG-NK-1, Change 1. E.O. 13526 update; being prepared for concurrence.

CG-OST-1. Will cover Office of Secure Transportation programmatic information. Final draft to program office (NA-15) on 9/29/2011. Awaiting input.

CG-RDD-2. Ready to go into concurrence after NRC and HS-52 resolve issues over vulnerability.

CG-RER-2. Program office is developing a program protection program.

CG-SILEX-2. working group held in November 2011. Program revising draft.

CG-SLD-1. Met with program office on February 22, 2011, to discuss draft guide. Awaiting additional input from program office as a result of the meeting.

Guidance Issued since Index 2012-01

No guides have been issued since the last Index update.

CG-SS-4, Change 7. E.O. 13526 update and incorporation of TNP-32, SAP, and TSCM summary sections. Being prepared for concurrence.

CG-SST-1. Will cover safe secure railcar information. Being prepared for concurrence.

CG-TSS-3, Change 2. Under revision to reflect E.O. 13526 requirements. Will eventually be replaced by TSS, SST, and OST guides. Being prepared for concurrence.

CG-TSS-4. Will cover shipper and receiver information. Being prepared for concurrence.

CG-TSS-4A. Will cover secure railcar information. Being prepared for concurrence.

Topical Classification Guides (TCG)

TCG-NAS-2, Change 7. Just starting development. Change will incorporate SSP rescission topics.

TCG-UC-3, Change 5. In formal concurrence.

TCG-WPMU-3. In formal concurrence.

UCNI Topical Guidelines (TG)

TG-NNP-2. In development.

Classification Bulletins Currently in Draft

TNP-33, Classification Bulletin for Pu-238 Production. Waiting on program (NE-43) policy determination.

TNP-42, Supplemental guidance to CG-SILEX-1. Checking with ORO to incorporate into CG-SILEX-2.

TNP-43, Y-12 program. In development.

WNP-136, Foreign Nuclear Capabilities. Awaiting DOS input.

WNP-141, Scale Factors in Subcritical Experiments. Awaiting LLNL input.

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

NOTE: Since Barbara Smith has retired, please contact Sandy Dorsey for copies of guides at (301) 903-3688 or Sandy.Dorsey@hq.doe.gov.