



Department of Energy  
Washington, DC 20585

MEMORANDUM FOR: INGRID KOLB  
DIRECTOR  
OFFICE OF MANAGEMENT

**JM CHRONOLOGY**

JM RECEIVED 7/19/13  
OUT FOR REVIEW 7/23/13  
DRB DISCUSSION 8/1/13

THROUGH: KEVIN T. HAGERTY  
DIRECTOR  
OFFICE OF INFORMATION RESOURCES

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 Order 472.2,  
*Personnel Security*, dated July 21, 2011

**PURPOSE:** This memorandum provides justification for the limited revision of Department of Energy Order 472.2, *Personnel Security*, which sets forth the policies and procedures governing the process by which the Department investigates and adjudicates individuals who require security clearances. This limited revision will ensure individuals holding dual citizenship receive proper consideration from a counterintelligence perspective prior to being granted access to classified matter or Special Nuclear Material.

**JUSTIFICATION:**

**Background:** Section 4.n. of this Order provides that individuals' eligibility for security clearances will be adjudged against the Adjudicative Guidelines for Determining Eligibility for Access to Classified Information (Adjudicative Guidelines), a national-level standard applicable across the Federal Government, and relevant Departmental requirements.

If an individual is a dual citizen, that is, a citizen of both the United States and another country simultaneously, Guideline C of the Adjudicative Guidelines and part 10, Code of Federal Regulations, section 710.4(e) are specifically applicable to the adjudicative process.



Several Departmental stakeholders have indicated that this current guidance is not sufficient to ensure proper consideration of dual citizens from a counterintelligence risk perspective. The potential for divided loyalties and other foreign concerns inherent in any dual citizen may pose risks to the Department beyond those posed by those who are only citizens of the United States. To further evaluate these potential risks, the Order must be revised to more completely address this concern, to include clarifying the associated responsibilities for adjudicating dual citizens and make consultation with the Office of Intelligence and Counterintelligence (IN) mandatory in dual citizen cases. Currently, section 4.n.(8)(f) of the Order has this as an optional action.

**Summary of Development Process:** HSS will work with IN, the Program Offices, and other stakeholders to develop appropriate language.

Once fully developed, it is anticipated that additional language will be inserted into the Order which will make it mandatory to obtain IN's input in these cases and will address any modification to the authorities and responsibilities contained in the present directive that are required to implement this change.

An ERM Risk Identification and Assessment has been performed, in accordance with applicable standards, and is included in this package.

**Applicability:** No changes in applicability are planned.

**Major Changes:** This is proposed as a limited revision that will revise only those sections necessary to address the risk identified above.

**IMPACT:**

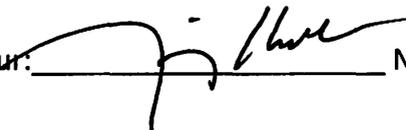
No conflicts with other directives have been identified.

Apart from the requirements needed for the review of cases involving dual citizens, which are expected to reduce the counterintelligence risk, no impacts to departmental functions or operations are anticipated.

**WRITER:** Mark R. Pekrul, HS-53, 6-4097

**OPI:** Larry D. Wilcher, HS-50, 3-5217

**DECISION:** Ingrid Kolb, Director, Office of Management (MA-1)

Concur:  Nonconcur: \_\_\_\_\_ Date: 8-1-13

Unless otherwise determined by Directives Review Board, writers will have up to 60 days in which to develop their first draft and submit to the Office of Information Resources, MA-90.

Timeline: Schedule for Directives Development

<u>Standard Schedule for Directives Development</u>	<u>Days</u>
Draft Development	60
Review and Comment (RevCom)	30
Comment Resolution	30
Final Review	30
Total	150

Enclosure

# Risk Identification and Assessment

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## Proposed Inclusion of Additional Procedures for Granting a Security Clearance to Dual Citizens

### Risk, Probability, Impact, and Risk Level Under Current Requirements

Risk	Probability	Impact	Risk Level
<b>People</b>			
A dual citizen is a citizen of the United States and of another nation. Current policy defers to the National Adjudicative Guidelines as the national driver for adjudicating clearances for such individuals, without requiring consultation with IN to fully assess the potential additional risk that may be associated with a person holding dual citizenship.	Certain	Low to Medium	Moderate to Extreme
<b>Mission</b>			
<ol style="list-style-type: none"> <li>1. Critical personnel may not be able to access required information.</li> <li>2. Senior management may be required to devote time to individual cases.</li> <li>3. Restricted Data and Formerly Restricted Data may be revealed to foreign interests without appropriate agreements and treaties being in place.</li> </ol>	<ol style="list-style-type: none"> <li>1. Unlikely</li> <li>2. Unlikely</li> <li>3. Unlikely</li> </ol>	<ol style="list-style-type: none"> <li>1. Medium</li> <li>2. Low</li> <li>3. High</li> </ol>	<ol style="list-style-type: none"> <li>1. Moderate</li> <li>2. Minor</li> <li>3. Significant</li> </ol>
<b>Assets</b>			
Restricted Data may be compromised	Unlikely	High	Significant
<b>Financial</b>	NA	NA	NA
<b>Customer and Public Trust</b>			
<ol style="list-style-type: none"> <li>1. Without clarification of procedures for addressing dual citizenship, customers may lose confidence in the effectiveness of the DOE personnel security process.</li> <li>2. Without clarification of procedures for addressing dual citizenship, the public may lose confidence in the effectiveness of the DOE personnel security process.</li> </ol>	<ol style="list-style-type: none"> <li>1. Unlikely</li> <li>2. Unlikely</li> </ol>	<ol style="list-style-type: none"> <li>1. Medium</li> <li>2. Medium</li> </ol>	<ol style="list-style-type: none"> <li>1. Moderate</li> <li>2. Moderate</li> </ol>

## Gap Analysis of Existing Risks and Controls

Type of Control	Control	Gap Analysis
Legislative	Atomic Energy Act	<ul style="list-style-type: none"> <li>• The AEA requires that the Department subject those requiring access to SNM and Restricted Data to a background investigation.</li> <li>• The AEA does not address dual citizens.</li> </ul>
Executive Orders	E. O. 12968	<ul style="list-style-type: none"> <li>• Establishes requirements for access to classified information.</li> <li>• Does not address dual citizens in its text, but this Executive Order led to the promulgation of the National Adjudicative Guidelines, which provide a framework within which Federal security officials are to adjudicate such cases.</li> </ul>
	E.O. 12829	<ul style="list-style-type: none"> <li>• Establishes the National Industrial Security Program which directs the issuance of the NISPOM.</li> <li>• The NISPOM does not address dual citizens.</li> </ul>
External Regulations:	National Adjudicative Guidelines	<ul style="list-style-type: none"> <li>• DOE O 472.2 requires the National Adjudicative Guidelines be used by Federal security officials to adjudicate such cases.</li> </ul>
DOE Regulation	10 CFR 710 Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material	Indicates that issues of national allegiance are significant concerns, but makes no reference to dual citizens per se.
DOE Orders	DOE O 472.2 Personnel Security	Identifies only two categories of person – citizen of the US or non-U.S. citizen. Does not directly address dual citizenship
Contract Controls	NA. Determination of eligibility for access to classified information and/or special nuclear material is a Federal function.	NA

## Risk Mitigation Techniques

Risk Assessment for Adding Procedures to Address Dual Citizenship to the Personnel Security Order					
Risk/Opportunity	Risk Level	Potential Cost/Benefit	External Control(s)	Proposed Mitigation Technique	Internal Control (if Needed)
1. An individual's dual citizenship may not be adequately considered prior to making a decision with regard to security clearance eligibility.	Moderate	In the event of a security incident involving that individual, both the judgment of the adjudicator and the efficacy of the DOE's personnel security program may be challenged, thereby reducing the confidence of the public and potential customers in the DOE's ability to protect national security assets.	Legislation Executive Orders	1. Ensure, through specific policy requirements, that appropriate adjudication guidelines are applied to dual citizens. 2. Ensure, through required consultation with intelligence organizations, that adjudicators have all available information upon which to determine eligibility of a dual citizen for a security clearance.	Reviews of personnel security activities to ensure that national adjudicative guidelines and the provisions of DOE O 472.2 are being applied in a similar manner at all sites and to confirm that required consultations have been obtained and considered.