

Department of Justice

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(b) At the time of original classification, an original classification authority may exempt specific information from declassification within 10 years in accordance with section 1.6(d) of Executive Order 12958.

(c) An original classification authority may extend the duration of classification or reclassify specific information for successive periods not to exceed 10 years at a time if such action is consistent with the standards and procedures established under, and subject to the limitations of, Executive Order 12958.

§ 17.25 Identification and markings.

(a) Classified information must be marked pursuant to the standards set forth in section 1.7 of Executive Order 12958; ISOO implementing directives in 32 CFR 2001, subpart B; and internal Department of Justice direction provided by the Department Security Officer.

(b) Foreign government information shall be marked or classified at a level equivalent to that level of classification assigned by the originating foreign government.

(c) Information assigned a level of classification under predecessor Executive Orders shall be considered as classified at that level of classification.

§ 17.26 Derivative classification.

(a) Persons need not possess original classification authority to derivatively classify information based on source documents or classification guides.

(b) Persons who apply derivative classification markings shall observe original classification decisions and carry forward to any newly created documents the pertinent classification markings.

(c) Information classified derivatively from other classified information shall be classified and marked in accordance with the standards set forth in sections 2.1-2.3 of Executive Order 12958, the ISOO implementing directives in 32 CFR 2001.22, and internal Department directions provided by the Department Security Officer.

§ 17.27 Declassification and downgrading.

(a) Classified information shall be declassified as soon as it no longer meets the standards for classification. Declassification and downgrading is governed by §3.1-3.3 of Executive Order 12958, implementing ISOO directives at 32 CFR 2001, subpart E, and applicable internal Department of Justice direction provided by the Department Security Officer.

(b) Information shall be declassified or downgraded by the official who authorized the original classification if that official is still serving in the same position, the originator's successor, or a supervisory official of either, or by officials delegated such authority in writing by the Attorney General or the Assistant Attorney General for Administration.

(c) It is presumed that information that continues to meet the classification requirements under Executive Order 12958 requires continued protection. In some exceptional cases during declassification reviews, the need to protect classified information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. If it appears that the public interest in disclosure of the information may outweigh the need to protect the information, the declassification reviewing official shall refer the case with a recommendation for decision to the DRC. The DRC shall review the case and make a recommendation to the Attorney General on whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure. The Attorney General shall decide whether to declassify the information. The decision of the Attorney General shall be final. This provision does not amplify or modify the substantive criteria or procedures for classification or create any substantive or procedural rights subject to judicial review.

(d) Each component shall develop schedules for declassification of records in the National Archives. The Department shall cooperate with the National Archives and Records Administration and the Presidential Libraries

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to ensure that declassification is accomplished in a timely manner.

§ 17.28 Automatic declassification.

(a) Subject to paragraph (b) of this section, all classified information contained in records that are more than 25 years old that have been determined to have permanent historical value shall be declassified automatically on April 17, 2000. Subsequently, all classified information in such records shall be automatically declassified not later than 25 years after the date of its original classification with the exception of specific information exempt from automatic declassification pursuant to section 3.4 (b) and (d) of Executive Order 12958.

(b) At least 220 days before information is declassified automatically under this section, the respective component head shall notify the Assistant Attorney General for Administration through the Department Security Officer of any specific information they propose to exempt from automatic declassification. The notification shall include:

- (1) A description of the information;
- (2) An explanation of why the information is exempt from automatic declassification and must remain classified for a longer period of time; and
- (3) A specific date or event for declassification of the information whenever the information exempted does not identify a confidential human source or human intelligence source.

(c) Proposed exemptions under this section shall be forwarded to the DRC, which shall recommend a disposition of the exemption request to the Assistant Attorney General for Administration. When the Assistant Attorney General for Administration determines the exemption request is consistent with this section, he or she will submit it to the Executive Secretary of the Interagency Security Classification Appeals Panel.

(d) Declassification guides that narrowly and precisely define exempted information may be used to exempt information from automatic declassification. Declassification guides must include the exemption notification information detailed in paragraph (b) of this section, and be approved pursuant to paragraph (c) of this section.

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§ 17.29 Documents of permanent historical value.

The original classification authority, to the greatest extent possible, shall declassify classified information contained in records determined to have permanent historical value under title 44 of the United States Code before they are accessioned into the National Archives. The Department shall cooperate with the National Archives and Records Administration in carrying out an automatic declassification program involving accessioned Department records, presidential papers, and historical materials under the control of the Archivist of the United States.

§ 17.30 Classification challenges.

(a) Authorized holders of information classified by the Department who, in good faith, believe that specific information is improperly classified or unclassified are encouraged and expected to challenge the classification status of that information pursuant to section 1.9 of Executive Order 12958. Authorized holders may submit classification challenges in writing to the DRC, through the Office of Information and Privacy, United States Department of Justice, Washington, DC 20530. The challenge need not be more specific than a question as to why the information is or is not classified, or is classified at a certain level.

(b) The DRC shall redact the identity of an individual challenging a classification under paragraph (a) of this section and forward the classification challenge to the original classification authority for review and response.

(c) The original classification authority shall promptly, and in no case later than 30 days, provide a written response to the DRC. The original classification authority may classify or declassify the information subject to challenge or state specific reasons why the original classification determination was proper. If the original classification authority is not able to respond within 30 days, the DRC shall inform the individual who filed the challenge in writing of that fact, and the anticipated determination date.

(d) The DRC shall inform the individual challenging the classification of the determination made by the original