

to the process of making an original classification decision. There is no requirement, at the time of the decision, for the original classification authority to prepare a written description of such damage. However, the original classification authority must be able to support the decision in writing, including identifying or describing the damage, should the classification decision become the subject of a challenge or access demand.

(d) *Declassification without proper authority.* Classified information that has been declassified without proper authority remains classified. Administrative action shall be taken to restore markings and controls, as appropriate.

§ 2001.11 Classification authority [1.3].

(a) *General.* Agencies with original classification authority shall establish a training program for original classifiers in accordance with subpart F of this part.

(b) *Requests for original classification authority.* Agencies not possessing such authority shall forward requests to the Director of the Information Security Oversight Office (ISOO). The agency head must make the request and shall provide a specific justification of the need for this authority. The Director of ISOO shall forward the request, along with the Director's recommendation, to the President through the Assistant to the President for National Security Affairs within 30 days. Agencies wishing to increase their assigned level of original classification authority shall forward requests in accordance with the procedures of this section.

§ 2001.12 Duration of classification [1.5].

(a) *Determining duration of classification for information originally classified under the Order—(1) Establishing duration of classification.* When determining the duration of classification for information originally classified under this Order, an original classification authority shall follow the sequence listed in paragraphs (a)(1)(i), (ii), and (iii) of this section.

(i) The original classification authority shall attempt to determine a date or event that is less than 10 years from the date of original classification and

which coincides with the lapse of the information's national security sensitivity, and shall assign such date or event as the declassification instruction.

(ii) If unable to determine a date or event of less than 10 years, the original classification authority shall ordinarily assign a declassification date that is 10 years from the date of the original classification decision.

(iii) If unable to determine a date or event of 10 years, the original classification authority shall assign a declassification date not to exceed 25 years from the date of the original classification decision.

(2) *Extending duration of classification for information originally classified under the Order.* Extensions of classification are not automatic. If an original classification authority with jurisdiction over the information does not extend the classification of information assigned a date or event for declassification, the information is automatically declassified upon the occurrence of the date or event. If an original classification authority has assigned a date or event for declassification that is less than 25 years from the date of classification, an original classification authority with jurisdiction over the information may extend the classification duration of such information for a period not to exceed 25 years from the date of origination.

(i) For information in records determined to have permanent historical value, successive extensions may not exceed a total of 25 years from the date of the information's origin. Continued classification of this information beyond 25 years is governed by section 3.3 of the Order.

(ii) For information in a file series of records determined not to have permanent historical value, the duration of classification beyond 25 years shall be the same as the disposition of those records (destruction date) in each agency Records Control Schedule or General Records Schedule approved by the National Archives and Records Administration, although the duration of classification may be extended if a record has been retained for business reasons beyond its scheduled destruction date.

(iii) For currently unscheduled records, the duration of classification beyond 25 years shall be determined in accordance with the provisions of (a)(2)(i) (for permanently valuable records) or (a)(2)(ii) (for temporary records) when the records are scheduled.

(3) *Conditions for extending classification.* When extending the duration of classification, the original classification authority must:

(i) Be an original classification authority with jurisdiction over the information;

(ii) Ensure that the information continues to meet the standards for classification under the Order; and

(iii) Make reasonable attempts to notify all known holders of the information.

(b) *Information classified under prior orders—(1) Specific date or event.* Unless declassified earlier, information marked with a specific date or event for declassification under a prior order is automatically declassified upon that date or event. However, if the information is contained in records determined by the Archivist of the United States to be permanently valuable, and the prescribed date or event will take place more than 25 years from the information's origin, the declassification of the information will instead be subject to section 3.3 of the Order.

(2) *Indefinite duration of classification.* For information marked "Originating Agency's Determination Required," its acronym "OADR," or with some other marking indicating an indefinite duration of classification under a prior order:

(i) A declassification authority, as defined in section 6.1 of the Order, may declassify it;

(ii) An authorized original classification authority with jurisdiction over the information may re-mark the information to establish a duration of classification consistent with the requirements for information originally classified under the Order, as provided in paragraph (a) of this section; or

(iii) Unless declassified earlier, such information contained in records determined by the Archivist of the United States to be permanently valuable shall remain classified for 25 years

from the date of its origin, at which time it will be subject to section 3.3 of the Order.

(c) *Changing the classification level of information originally classified under the Order.* An original classification authority with jurisdiction over the information may change the level of classification of information. Documents shall be remarked with the new classification level, the date of the action, and the authority for the change. Changing the classification level may also require changing portion markings for information contained within a document. Additionally, the original classification authority shall update appropriate security classification guides.

(d) *Reclassifying specific information.* An original classification authority with jurisdiction over the information may reclassify information that has been declassified or marked as unclassified in cases involving specific information that has not been publicly released under proper authority and has not been subject to a Freedom of Information Act, Privacy Act, or Mandatory Declassification Review request. (If the information has been publicly released under proper authority, see section 1.7(c) of the Order and §2001.13; if the information has not been publicly released but has been the subject of an access demand, see section 1.7(d) of the Order.)

(1) When taking this action, an original classification authority must include the following markings on the information:

- (i) The level of classification;
- (ii) The identity, by name or personal identifier and position, of the original classification authority;
- (iii) declassification instructions;
- (iv) a concise reason for classification; and
- (v) the date the action was taken.

(2) The original classification authority shall notify all known authorized holders of this action.

(e) *Exemption categories from 10-year declassification.* The markings for exemption categories X1 through X8 can no longer be used. When these markings appear on information dated before September 22, 2003, the information shall be declassified 25 years from the date of the original decision, unless

it has been properly exempted under section 3.3 of the Order.

(f) *Foreign government information.* The declassifying agency is the agency that initially received or classified the information. When foreign government information is being considered for declassification or appears to be subject to automatic declassification, the declassifying agency shall determine whether the information is subject to a treaty or international agreement that would prevent its declassification at that time. Depending on the age of the information and whether it is contained in permanently valuable records, the declassifying agency shall also determine if another exemption under section 3.3 (b) of the Order, such as the exemption that pertains to United States foreign relations, may apply to the information. If the declassifying agency believes such an exemption may apply, it should consult with any other concerned agencies in making its declassification determination. The declassifying agency or the Department of State, as appropriate, may consult with the foreign government(s) prior to declassification.

(g) *Determining when information is subject to automatic declassification.* The “date of the information’s origin” or “the information’s origin,” as used in the Order and this part, pertains to the date that specific information, which is contemporaneously or subsequently classified, is first recorded in an agency’s records, or in presidential historical materials, presidential records or donated historical materials. The following examples illustrate this process:

Example 1. An agency first issues a classification guide on the F-99 aircraft on October 20, 1995. The guide states that the fact that the F-99 aircraft has a maximum velocity of 500 m.p.h. shall be classified at the “Secret” level for a period of ten years. A document dated July 10, 1999, is classified because it includes the maximum velocity of the F-99. The document should be marked for declassification on October 20, 2005, ten years after the specific information was first recorded in the guide, not on July 10, 2009, ten years after the derivatively classified document was created.

Example 2. An agency classification guide issued on October 20, 1995, states that the maximum velocity of any fighter aircraft shall be classified at the “Secret” level for a period of ten years. The agency first records

the specific maximum velocity of the new F-88 aircraft on July 10, 1999. The document should be marked for declassification on July 10, 2009, ten years after the specific information is first recorded, and not on October 20, 2005, ten years after the date of the guide’s generic instruction. Subsequent documents containing this information would be marked for declassification 10 years from the date of the document.

§ 2001.13 Classification prohibitions and limitations [1.7].

(a) In making the decision to reclassify information that has been declassified and released to the public under proper authority, the agency head or deputy agency head must determine in writing that reclassification of the information is necessary in the interest of the national security.

(1) In addition, the agency must deem the information to be reasonably recoverable which means that:

(i) Most individual recipients or holders are known and can be contacted and all forms of the information to be reclassified can be retrieved from them and

(ii) If the information has been made available to the public via means such as Government archives or reading rooms, it is withdrawn from public access.

(2) The declassification and release of information under proper authority means that the agency originating the information authorized the declassification and release of the information.

(b) Once the reclassification action has occurred, it must be reported to ISOO within 30 days. The notification must include how the “reasonably recoverable” decision was made, including the number of recipients or holders, how the information was retrieved and how the recipients or holders were briefed.

(c) Any recipients or holders of the reclassified information who have current security clearances shall be appropriately briefed about their continuing legal obligations and responsibilities to protect this information from unauthorized disclosure. The recipients or holders who do not have security clearances shall, to the extent practicable, be appropriately briefed about the reclassification of the information that