

Subpart E—Reclassification**§ 1260.70 Can previously released Executive Branch information be reclassified or have its classification restored?**

(a) Records that were properly declassified in accordance with EO 12958, as amended, (or predecessor orders) and that have been released may be temporarily closed and considered for reclassification at the request of an agency. Final action must be taken under the personal authority of the agency head or deputy agency head, who determines in writing within 20 workdays that the reclassification of the information is necessary in the interest of the national security. In addition, the information must be reasonably recoverable in accordance with section 1.7(c) of the Order and section 2001.13(a) of the Implementing Directive (32 CFR 2001.13(a)).

(b) Records that were not properly declassified in accordance with EO 12958, as amended, (or predecessor orders) remain classified. Upon notification, NARA will take administrative action to restore markings and controls, as appropriate. In the event that records have been released, they may be temporarily closed and their classification reviewed at the request of an agency. The agency must notify NARA of the results of the review within 30 days.

(c) Agencies must submit all requests in writing. If the urgency of the request precludes a written request, an authorized agency official may make a preliminary request by telephone and follow up with a written request within 5 working days. Requests concerning Executive Branch records must be addressed to the Assistant Archivist for Records Services—Washington, DC, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. Requests concerning information in Presidential libraries must be addressed to the Assistant Archivist for Presidential Libraries, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001.

(d) Any such written request must include all of the following:

(1) A description of the records or donated materials involved, identified with sufficient specificity to enable NARA to locate it with a reasonable amount of effort;

(2) An explanation as to why the records should be closed and reviewed;

(3) A statement as to the authority for any classification or reclassification, to include a reference to the specific category in section 1.4 or 3.3(b) of E.O. 12958, as appropriate; and

(4) Any information the agency may have concerning any previous public disclosure of the information. NARA will assist by providing information.

§ 1260.72 Can previously released White House originated information be reclassified or have its classification restored?

An agency or an entity within the Executive Office of the President that solely advises and assists the President, may ask NARA to temporarily close, review, and possibly reclassify or restore the classification of White House originated information that has been declassified and previously released. The agency or other entity must follow the same procedures as a request for reclassification of Executive branch originated information in 36 CFR 1260.70.

§ 1260.74 What if NARA does not concur with an agency decision to reclassify or restore the classification of information that has been previously released?

(a) If NARA is concerned that relevant procedures and policies under EO 12958, as amended, or its Implementing Directives are not being properly implemented, the Archivist will promptly report such situations to the Director of ISOO.

(b) If, in the opinion of the Archivist, an agency's determination with respect to the classification status of records that have been previously released is improper, the Archivist, as an authorized holder, may challenge the classification status of the pertinent records in accordance with section 1.8 of EO 12958, as amended.

(c) NARA will direct any such challenge in writing to the agency with classification authority and jurisdiction over the information.

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(d) If no response is provided by the agency within 120 days, NARA may forward the challenge directly to the ISCAP. NARA must forward the challenge within 60 days of the agency's failure to provide a response within the 120 day response period.

(e) If an agency appellate authority fails to provide NARA with a response to an appeal within 90 days of its receipt, NARA may forward the appeal

directly to the ISCAP. NARA must forward the challenge within 60 days of the agency's failure to provide a response to an appeal within the 90 day response period.

(f) All records subject to classification challenges will remain classified pending final resolution of the challenge and, if necessary, any such appeals.