

U.S. Department of Energy
Washington, D.C.

ORDER

DOE 5650. 2

12-12-78

SUBJECT: CLASSIFICATION OF INFORMATION

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1. PURPOSE. To provide specific responsibilities, standards, and procedures for the management of the Department of Energy (DOE) classification system.
 2. CANCELLATION.
 - a. DOE 5650.1, DESIGNATION OF DEPARTMENT OF ENERGY TOP SECRET CLASSIFICATION AUTHORITIES, of 7-18-78.
 - b. DOE N 5650.1, CLASSIFICATION POLICY AND PROCEDURES, of 8-7-78.
 - c. DOE N 5650.2, DECLASSIFICATION POLICY AND PROCEDURES, of 8-7-78.
 - d. DOE N 5650.3, CLASSIFICATION APPRAISAL SYSTEM, of 8-7-78.
 - e. Energy Research and Development Administration (ERDA) Manual 3401, Appendix, CLASSIFICATION AND DECLASSIFICATION HANDBOOK, of 3-24-77.
 3. SCOPE. These provisions apply to all DOE elements, its contractors, subcontractors, and access permittees, including the Federal Energy Regulatory Commission and its contractors and subcontractors.
 4. EFFECTIVE DATE. The provisions of this directive became effective on 12-1-78.
 5. REFERENCES.
 - a. Atomic Energy Act of 1954, as amended (hereinafter referred to as the Atomic Energy Act), which established procedures for control of atomic energy information.
 - b. Department of Energy Organization Act, which created the DOE.
 - c. Energy Reorganization Act of 1974, as amended, which created ERDA and the Nuclear Regulatory Commission.
 - d. Freedom of Information Act of 1967, as amended (hereinafter referred to as the Freedom of Information Act (FOIA)), which established requirements for public access to Government information.
 - e. National Security Act of 1947, as amended, which created the Department of Defense (DOD).

DISTRIBUTION: All Departmental Elements
All Contractors, Subcontractors,
and Access Permittees
Federal Energy Regulatory Commission, and
its Contractors and Subcontractors

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Classification

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- f. Patent Secrecy Act of 1952, which established authority for imposing secrecy on patents of importance to the national security.
- g. Privacy Act of 1974, which established requirements for Government protection of personal information.
- h. Executive Order (EO) 10501, as amended, "Safeguarding Official Information in the Interests of the Defense of the United States," 11-5-53 (superseded by EO 11652), which established requirements concerning classification of defense information.
- i. EO 10964, "Amendment of Executive Order No. 10501 Entitled 'Safeguarding Official Information in the Interests of the Defense of the United States,'" 9-20-61 (superseded by EO 11652), which amended classification requirements of EO 10501.
- j. EO 11652, as amended, "Classification and Declassification of National Security Information and Materials," 3-8-72 (superseded by EO 12065), which provided new requirements concerning classification of information.
- k. EO 12065, "National Security Information," 6-28-78, which provides new requirements concerning classification of information.
- l. Information Security Oversight Office Directive No. 1, "National Security Information," 9-29-78, which assists in the implementation of EO 12065.
- m. DOE Delegation Order No. 0204-2, 10-3-77, which delegated responsibility to the Assistant Secretary for Defense Programs (DP-1) for declassification of Restricted Data (RD).

FOR THE SECRETARY OF ENERGY:



William S. Heffelfinger
Director of Administration

12-12-78

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DIRECTIVE NO. 1.

CHAPTER I

ABBREVIATIONS, DEFINITIONS, AND QUALIFICATIONS

1. ABBREVIATIONS AND DEFINITIONS.

a. Abbreviations.

- (1) AEC--Atomic Energy Commission.
- (2) DOD--Department of Defense.
- (3) DOE--Department of Energy.
- (4) DP-1--Assistant Secretary for Defense Programs.
- (5) EO--Executive Order.
- (6) ERDA--Energy Research and Development Administration.
- (7) FOIA--Freedom of Information Act.
- (8) FRD--Formerly Restricted Data.
- (9) HQ--Headquarters.
- (10) ISOO--Information Security Oversight Office.
- (11) NSI--National Security Information.
- (12) RD--Restricted Data.
- (13) RR--Responsible Reviewer.
- (14) R&D--Research and Development.

b. Definitions.

- (1) Administrative Information. Information required or generated in the normal functioning of an organization or program, other than technical, costing, or programmatic information.
- (2) Authorized Classifier. An Authorized Original Classifier or an Authorized Derivative Classifier.
 - (a) Authorized Derivative Classifier. One authorized to derivatively classify documents or material.
 - (b) Authorized Original Classifier. One authorized to originally classify National Security Information (NSI).
- (3) Authorized Declassifier. One authorized to downgrade and declassify documents or material.
- (4) Authorized Derivative Classifier. See Authorized Classifier.
- (5) Authorized Original Classifier. See Authorized Classifier.
- (6) Classification. Original classification or derivative classification.

- (a) Derivative Classification. A determination in accordance with approved classification guides, source documents, or other guidance of an Authorized Original Classifier that a document or material contains classified information (RD, Formerly Restricted Data (FRD), or NSI).
 - (b) Original Classification. A determination that NSI requires protection under the provisions of EO 12065. Includes the specification of a classification level and the classification duration.
- (7) Classification Appraisal. A systematic process by which a judgment is made of the quality of a classification program.
- (8) Classification Authority. Derivative classification authority or original classification authority.
- (a) Derivative Classification Authority. Authority to derivatively classify RD, FRD, or NSI documents or material.
 - (b) Original Classification Authority. Authority to originally classify NSI.
- (9) Classification Boards. Boards appointed by heads of field or prime contractor organizations or Classification Officers to assist them in discharging their classification and declassification responsibilities.
- (10) Classification Category. One of the three kinds of classified information (RD, FRD, or NSI).
- (11) Classification Guide. A document containing classification guidance for the use of Authorized Classifiers and Authorized Declassifiers in making classification determinations.
- (12) Classification Level. One of the three classification specifications (in descending order): Top Secret, Secret, and Confidential.
- (13) Classification Markings. Markings affixed to classified documents or material to indicate the classification category of information contained therein (i.e., RD, FRD, or NSI), the classification level (i.e., Top Secret, Secret, or

Confidential) including the designation "Unclassified", and (for NSI) the date or event for declassification or declassification review.

- (14) Classification Officer. A DOE Classification Officer or a Contractor Classification Officer.
 - (a) Contractor Classification Officer. One designated by the head of a contractor organization to administer its classification program and oversee or monitor the classification programs of subcontractor organizations under its jurisdiction.
 - (b) DOE Classification Officer. One designated by the head of a field organization to administer its classification program and oversee or monitor the classification programs of contractor organizations under its jurisdiction.
- (15) Classification Policy. DOE policy on classification, transclassification, downgrading, and declassification of information under its purview.
- (16) Classification Policy Guide. The classification guide through which the DOE denotes the areas of information under its purview which are classified or unclassified.
- (17) Classification Review Committee. A committee that considers appeals of denials of requests for classified documents under the Mandatory Review provisions of EO 12065, and considers suggestions and complaints concerning the DOE classification program.
- (18) Classification Violation. A willful abuse of the classification provisions of the Atomic Energy Act, EO 12065 and its implementing directives, other statutes or EO's pertaining to classification, or this manual.
- (19) Classified Document. Any document containing classified information.
- (20) Classified Information.
 - (a) Restricted Data;
 - (b) Formerly Restricted Data; or

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- (c) National Security Information determined by appropriate authority, in accordance with EO 12065 or other pertinent EO's, to require protection against unauthorized disclosure in the interest of national security.
- (21) Confidential. The classification level applied to information whose unauthorized disclosure could reasonably be expected to cause identifiable damage to the national security. (The lowest level of classification.)
- (22) Contractor Classification Officer. See Classification Officer.
- (23) Contractor Organization. A prime contractor organization or a subcontractor organization.
 - (a) Prime Contractor Organization. An organization under direct contract to the DOE.
 - (b) Subcontractor Organization. An organization under contract to a DOE contractor organization.
- (24) Declassification.
 - (a) A determination by appropriate authority that information no longer requires classification protection; or
 - (b) A determination by appropriate authority in accordance with approved classification policy or guidance that a classified document or material is no longer classified; or
 - (c) The removal of classification markings from a document or material in accordance with a declassification notice from an appropriate authority.
- (25) Declassification Authority. Authority to determine that information, documents, or material can be declassified and to authorize such declassification.
- (26) Declassification Event. An event that would eliminate the need for continued classification.
- (27) Declassification Guidance. Guidance provided by appropriate authority for use in declassifying documents or material. It may be used only by those with declassification authority.
- (28) Declassification Policy. DOE policy on declassification of information.

- (29) Declassified Document. A previously classified document that has been declassified by appropriate authority in accordance with approved declassification policy and from which the classification markings have been removed.
- (30) Declassified Information. Previously classified information that has been declassified by appropriate authority.
- (31) Denying Official. A DOE official authorized to make initial determinations for the DOE to deny, in whole or in part, requests for records under the FOIA. (Also referred to as an Authorizing Official.)
- (32) Derivative Classification. See Classification.
- (33) Derivative Classification Authority. See Classification Authority.
- (34) Document. Any record of information regardless of physical form or characteristics, including, but not limited to, the following:
 - (a) All handwritten, printed, or typed matter;
 - (b) All painted, drawn, or engraved matter;
 - (c) All sound, magnetic, or electromechanical recordings;
 - (d) All photographic prints and exposed or developed film or still or motion pictures;
 - (e) Automatic data processing input, memory, program, or output information or records such as punch cards, tapes, memory drums or disks, or visual displays;
 - (f) All reproductions of the foregoing by any process.
- (35) DOE Classification Officer. See Classification Officer.
- (36) DOE Organization. A headquarters (HQ) organization or a field organization.
 - (a) Field Organization. An operations office, power administration, or regional office.
 - (b) Headquarters Organization. An organization at or above the Office level (level 3) located within the Washington, D.C., metropolitan area.

- (37) Downgrading. Lowering the classification level of information, documents, or material. (Does not include declassification.)
- (38) Field Organization. See DOE Organization.
- (39) Foreign Government Information. Information provided to the United States in confidence by, or produced by the United States pursuant to a written joint arrangement requiring confidentiality with, a foreign government or international organization of governments.
- (40) Formal Report. A formal topical or progress report distributed in accordance with specific categories of the Standard Distribution Lists (TID-4500 and M-3679).
- (41) Formerly Restricted Data. Classified information jointly determined by DP-1 and the DOD to be related primarily to the military utilization of atomic weapons, and removed by DP-1 from the RD category pursuant to section 142(d) of the Atomic Energy Act.
- (42) Government Agency. Any executive department, commission, independent establishment, or corporation, wholly or partly owned by the United States of America and which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.
- (43) Guide to the Unclassified Fields of Research. The classification guide that defines areas of information that may be originated as unclassified.
- (44) Headquarters Organization. See DOE Organization.
- (45) Information. In this manual, is restricted to facts, data, or knowledge itself, rather than to the medium of its conveyance. (Documents and materials are deemed to convey or contain information and are not considered to be information per se.)
- (46) Information Security Oversight Office (ISOO). An organization within the General Services Administration created by EO 12065 to oversee Government implementation of that EO.
- (47) Interagency Information Security Committee. A committee created by EO 12065 to aid the ISOO.

- (48) Local Classification Guide. A classification guide prepared and issued by a DOE or DOE contractor organization. It is based on a program classification guide and provides detailed classification guidance.
- (49) Mandatory Review. A declassification review that can be initiated or requested by a member of the public, a Government employee, or another Government agency pursuant to EO 12065 and this manual.
- (50) Material.
 - (a) A chemical substance;
 - (b) A fabricated or processed item; or
 - (c) Machinery and equipment.
- (51) National Security. The national defense and foreign relations of the United States.
- (52) National Security Information. Information pertaining to the national security and classified in accordance with an EO.
- (53) Office of Classification. In this manual, the Office of Classification, DOE HQ.
- (54) Office of Safeguards and Security. In this manual, the Office of Safeguards and Security, DOE HQ.
- (55) Official Use Only. A designation that identifies unclassified information that is exempt from disclosure under the FOIA.
- (56) Original Classification. See Classification.
- (57) Original Classification Authority. See Classification Authority.
- (58) Portion Marking. The application of classification markings to individual portions of a document to indicate their specific classification.
- (59) Prime Contractor Organization. See Contractor Organization.

- (60) Program Classification Guide. A classification guide that states specific classification policy for a particular DOE program.
- (61) Responsible Reviewers (RR's). Those appointed to advise the Director of Classification on classification and declassification of matters in their fields of professional competence.
- (62) Restricted Data. All data concerning:
- (a) Design, manufacture, or utilization of atomic weapons;
 - (b) Production of special nuclear material; or
 - (c) Use of special nuclear material in the production of energy;
- but shall not include data declassified or removed from the RD category pursuant to section 142 of the Atomic Energy Act.
- (63) Sanitizing. Physical removal of all classified information from a classified document.
- (64) Secret. The classification level applied to information whose unauthorized disclosure could reasonably be expected to cause serious damage to the national security. (The classification level between Confidential and Top Secret.)
- (65) Source Document. A document, other than a classification guide, from which information is extracted for inclusion in another document. The term "source document" is used in the context that the classification of information extracted from the source document is determined by reference to the classification specified in the source document for the information extracted.
- (66) Subcontractor Organization. See Contractor Organization.
- (67) Systematic Review. A classification review required by EO 12065 to be conducted for NSI and documents containing NSI that have been classified for 20 years (30 years for foreign government information).
- (68) Systematic Review Guidelines. Guidelines required by EO 12065 for identifying NSI or documents containing NSI that may not be declassified automatically at 20 years.

- (69) System Manager. The DOE official responsible for a DOE system of records as designated in the system notice of that system published by the DOE in the "Federal Register" in accordance with the provisions of the Privacy Act of 1974.
- (70) Technical Evaluation Panel. A panel established by DP-1 to provide technical expertise and assistance to that Assistant Secretary.
- (71) Top Secret. The classification level applied to information whose unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. (The highest classification level.)
- (72) Transclassification. The removal of information from the RD category. (Does not include declassification.)
- (73) Unclassified. The designation for information, a document, or material that has not been classified or that has been declassified by proper authority.
- (74) Upgrading. Raising the classification level of information, documents, or material. (Also applied to the marking of a classified document or material that was initially improperly issued as unclassified.)
- (75) Visual Materials. Photographs, motion pictures, slides, article concepts, engineering drawings, plant layouts, plots, plans, maps, etc.

2. QUALIFICATIONS.

- a. Authorized Classifiers must be knowledgeable in the area(s) in which they will make classification judgments and must be thoroughly familiar with DOE classification policy and procedures. Classification authority should not be given to secretarial or clerical employees, who normally will only be involved in the marking of documents in accordance with instructions of an Authorized Classifier.
- b. Authorized Declassifiers must have substantially the same qualifications as Authorized Classifiers.
- c. Classification Officers must have a scientific or technical degree unless otherwise approved by the Director of Classification on a case-by-case basis. Classification Officers will be designated as Authorized Classifiers.

- d. Responsible Reviewers must be qualified experts who are recognized authorities in their respective fields. They also must be familiar with DOE classification policies and procedures.

CHAPTER II

POLICY AND OBJECTIVES

1. GENERAL. The objectives of the DOE classification program are to establish the proper classification of certain information within the purview of the DOE which requires protection in the interest of the security of the United States, and to identify those documents and materials which reveal such information so as to assure its protection. Information within the purview of the DOE classification program includes RD and FRD, which are classified pursuant to the Atomic Energy Act, and NSI, which is classified pursuant to EO 12065.
2. ATOMIC ENERGY ACT. Pursuant to the Department of Energy Organization Act and the Energy Reorganization Act of 1974, as amended, the Secretary of Energy has certain responsibilities with regard to the control of information which falls under the purview of the Atomic Energy Act. In accordance with the Atomic Energy Act it is DOE policy to control the dissemination and declassification of RD in such a manner as to assure the common defense and security. Consistent with such policy, the DOE shall be guided by the following principles [section 141, Atomic Energy Act]:
 - "a. Until effective and enforceable international safeguards against the use of atomic energy for destructive purposes have been established by an international arrangement, there shall be no exchange of Restricted Data with other nations except as authorized by section 144 [of the Atomic Energy Act]; and
 - "b. The dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding and to enlarge the fund of technical information."
- a. All information falling within the definition of RD is classified at its inception by the Atomic Energy Act. The Act also provides for the declassification and transclassification of such information. Five provisions of the Atomic Energy Act deal with declassification or transclassification [section 142, Atomic Energy Act]:

- "a. The [Secretary of Energy] shall from time to time determine the data, within the definition of Restricted Data, which can be published without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data.
- "b. The [Secretary of Energy] shall maintain a continuous review of Restricted Data and of any classification guides issued for the guidance of those in the atomic energy program with respect to the areas of Restricted Data which have been declassified in order to determine which information may be declassified and removed from the category of Restricted Data without undue risk to the common defense and security.
- "c. In the case of Restricted Data which the [Secretary of Energy] and the Department of Defense jointly determine to relate primarily to the military utilization of atomic weapons, the determination that such data may be published without constituting an unreasonable risk to the common defense and security shall be made by the [Secretary of Energy] and the Department of Defense jointly, and if the [Secretary of Energy] and the Department of Defense do not agree, the determination shall be made by the President. [Provision for declassification of FRD.]
- "d. The [Secretary of Energy] shall remove from the Restricted Data category such data as the [Secretary of Energy] and the Department of Defense jointly determine relates primarily to the military utilization of atomic weapons and which the [Secretary of Energy] and Department of Defense jointly determine can be adequately safeguarded as defense information: provided, however, that no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for cooperation entered into in accordance with subsection 144b [of the Atomic Energy Act]. [Provision for the transclassification of RD to FRD.]
- "e. The [Secretary of Energy] shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the [Secretary of Energy] and the Director of Central Intelligence jointly determine to be necessary to carry out the provisions of section 102(d) of the National Security Act of 1947, as amended, and can be adequately safeguarded as defense information."

- b. The responsibilities and authorities vested in the Secretary under subparagraph 2a have been delegated to DP-1 (Delegation Order No. 0204-2, 10-3-77). Thus, DP-1 is the sole authority for declassification of information falling within the definition of RD. Furthermore, only DP-1 may transclassify to the FRD category information determined jointly by DP-1 and the DOD to relate primarily to the military utilization of atomic weapons. Such information may be declassified only by a joint action of DP-1 and the DOD.
 - c. It is DOE's responsibility, through the Office of Classification, to interpret the classification and declassification provisions of the Atomic Energy Act. All regulations and policy pertaining to the classification, declassification, transclassification, and downgrading of RD and FRD are promulgated pursuant to the requirements of the Atomic Energy Act.
 - d. Classification guides, identifying information falling within the purview of the Atomic Energy Act that remains classified or that has been declassified, are issued by the Office of Classification. Such guides also specify the proper classification level to be afforded to specific information in the RD and FRD categories. (Note: Although the Atomic Energy Act makes no specifications for classifying RD and FRD at more than one level, three levels of protection have been established for such information based on its sensitivity. The designations used to denote those levels are the same as those used for NSI.) OMISSION FROM DOE CLASSIFICATION GUIDES OF A STATEMENT ABOUT INFORMATION WHICH CONCEIVABLY FALLS WITHIN THE DEFINITIONS OF RD OR FRD DOES NOT MEAN THAT SUCH INFORMATION HAS BEEN DECLASSIFIED OR THAT IT IS NOT RD OR FRD.
3. EXECUTIVE ORDER 12065. EO 12065 authorizes the Secretary of Energy to originally classify NSI as Top Secret. It also authorizes the Secretary to delegate original classification authority to subordinates. Along with authority to classify information, Government agencies with original classification authority have certain responsibilities pertaining to information classified pursuant to the EO. In the DOE these responsibilities have been delegated where allowed by the EO. (These specific responsibilities are stated in chapter III.)
 - a. It is DOE policy to classify as NSI, in accordance with the provisions of EO 12065, only such information as is required to be protected against unauthorized disclosure in the interest of the national defense or foreign relations of the United States. Specifically, information may be classified as NSI only

when the following two conditions are met (unless otherwise prohibited by EO 12065):

- (1) The information falls under one of the classification criteria set forth in section 1-301 of EO 12065;
 - (2) Unauthorized disclosure of the information could reasonably be expected to cause at least identifiable damage to the national security.
- b. Although certain persons within the DOE have been delegated authority to make original classification determinations (i.e., decisions made personally and not pursuant to a classification guide, a classified source document, or the direction of an Authorized Original Classifier), it is DOE policy that, whenever possible, all classified information be covered by classification guides approved by the Director of Classification.
- c. It is DOE policy that information classified in the DOE pursuant to an EO shall be declassified as soon as national security considerations permit. Declassification decisions shall be based on loss of the information's sensitivity with the passage of time or on the occurrence of a declassification event.

4. POLICY REGARDING AUTHORITIES.

a. Classification Authority.

- (1) A distinction is made in the DOE between classification of information, on the one hand, and classification of documents and material, on the other. (FOR THE PURPOSE OF THIS MANUAL, THE TERM "INFORMATION" IS NOT USED TO INCLUDE DOCUMENTS AND MATERIAL. THE TERMS "DOCUMENT" AND "MATERIAL" ARE USED TO MEAN ONLY THE DOCUMENT OR MATERIAL ITSELF, RESPECTIVELY, AND NOT THE INFORMATION CONTAINED THEREIN.) Those who originally classify NSI (when the information is not covered by a classification guide or has not otherwise been classified by other authority) must be Authorized Original Classifiers. Those who classify documents or material must be either Authorized Original Classifiers or Authorized Derivative Classifiers. (An Authorized Derivative Classifier may classify documents or material only on the basis of classification guidance or other direction of an Authorized Original Classifier.) Thus, before a document or material may be classified, a previous determination must have been made by appropriate authority that the information contained therein is classified.

- (2) Furthermore, it is DOE policy that only individuals authorized to do so may classify information, documents, or materials. Classification of information requires "original classification authority." Classification of documents or material requires "derivative classification authority."
 - (a) An Authorized Original Classifier may also classify documents and material on a derivative basis. However, an Authorized Derivative Classifier may make determinations only based on classification guides, classified source documents, or other direction of an Authorized Original Classifier.
 - (b) As recognized by EO 12065, the Atomic Energy Act constitutes the sole authority for classification of RD and FRD. However, although there is no person authorized to classify information as RD or FRD (since such information is classified by the Atomic Energy Act itself), it is DOE policy to designate as Authorized Derivative Classifiers individuals who may make the determination that documents and material contain RD or FRD.
- b. Declassification Authority.
- (1) Within the DOE a distinction is made between the declassification of information and the declassification of documents and material. For example, the declassification of documents refers to the process of removing classification markings from documents or the determination that the information contained in a document consists only of information that is unclassified or that has previously been declassified by appropriate authority.
 - (2) It is DOE policy that only those authorized to do so may declassify information, documents, or material. The declassification of information requires a separate and distinct authority from the authority to declassify documents and material.
- c. The authorities, and limitations and extents thereof, for classification and declassification are expounded upon in ensuing chapters. Those involved in the generation of classified information, documents, and material must ensure that not only are their classification or declassification determinations made upon proper authority, but also that such determinations are in compliance with the Atomic Energy Act, EO 12065 and its implementing directives,

other appropriate statutes and EO's, approved classification policy and guidance, and the provisions of this manual.

5. QUESTIONS, SUGGESTIONS, AND COMMENTS. Questions, suggestions, and comments concerning the DOE classification and declassification program may be directed to the Director of Classification, Department of Energy, Washington, DC 20545.

CHAPTER III
RESPONSIBILITIES AND AUTHORITIES

1. SECRETARY.

- a. Originally classifies information up to Top Secret.
- b. Delegates Top Secret original classification authority to those of his principal subordinates who have a frequent need to exercise such authority.
- c. Determines that specific categories of information are related to national security and require protection against unauthorized disclosure pursuant to section 1-301(g) of EO 12065.
- d. Exercises, as necessary, the authority granted by section 1-606 of EO 12065 to classify documents when such documents have been requested pursuant to the FOIA or the Mandatory Review provisions of EO 12065.
- e. Extends the classification of specific categories of information or documents beyond 20 years (30 years for foreign government information) when it has been determined that such extended duration of classification is justified and is consistent with EO 12065. (This provision applies only to information and documents classified pursuant to an EO, and therefore does not apply to RD or FRD.)
- f. Requests, as necessary, from the Director of the ISOO, waivers from the 10-year review requirement for information reviewed under the Systematic Review provisions of EO 12065.

2. DEPUTY SECRETARY exercises, as necessary, the authority granted by section 1-606 of EO 12065. (See subparagraph 1d.)

3. ASSISTANT SECRETARY FOR DEFENSE PROGRAMS.

- a. Approves basic DOE policy on the classification and declassification of RD, FRD, and NSI; approves the "Classification Policy Guide," which represents such policy.
- b. Declassifies and transclassifies RD and declassifies FRD in accordance with sections 142(a), (c), (d), and (e) of the Atomic Energy Act.

- c. Assures DOE implementation of EO 12065.
 - d. Ensures that programs are established to take appropriate and prompt corrective action whenever a violation of the classification or declassification provisions of EO 12065 or the Atomic Energy Act occurs.
 - e. Appoints members of and consultants to the Technical Evaluation Panel.
4. DEPUTY ASSISTANT SECRETARY FOR DEFENSE PROGRAMS chairs the Classification Review Committee.
5. DIRECTOR OF CLASSIFICATION.
- a. Develops (for the approval of DP-1) the DOE "Classification Policy Guide"; coordinates proposed policies with appropriate DOE program organizations.
 - b. Recommends to DP-1 all actions for removing information from the RD category.
 - c. Makes the interpretation of DOE classification policy.
 - d. Develops and implements DOE classification and declassification standards, rules, and procedures; conducts programs for the classification and declassification of information.
 - e. Assures the preparation, coordination, and issuance of classification guides for all programs that have a potential for involving or generating classified information; approves all program and local classification guides prior to their issuance; prepares, approves, and issues the "Guide to the Unclassified Fields of Research."
 - f. Coordinates and assures issuance of classification guidance for classified information generated under the cognizance of the DOE when the classification policy for such information is developed by other Government agencies or foreign governments.
 - g. Determines the proper classification of information (including establishing classification levels for RD and FRD) and declassifies NSI on a Departmentwide basis, consistent with established DOE classification policy.
 - h. Conducts a continuing review of RD and FRD and classification guides pertaining thereto in order to determine which information

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may be declassified and removed from the category of RD without undue risk to the common defense and security.

- i. Develops classification and declassification standards as required for international agreements for cooperation entered into pursuant to the provisions of the Atomic Energy Act, and reviews and evaluates foreign classification and declassification policies, procedures, and actions established or taken pursuant to such agreements to assure that they are consistent with the requirements of the agreements.
- j. Administers DOE implementation of EO 12065 and its implementing directives except for those provisions pertaining to special access programs and personnel and physical security.
 - (1) Conducts a continuous review of and revises as necessary DOE classification guides for NSI; maintains an index of all DOE classification guides.
 - (2) Issues Systematic Review guidelines covering 20-year-old classified NSI and 30-year-old classified foreign government information under the purview of the DOE, publishes such guidelines in the "Federal Register," and makes such guidelines available to the Archivist of the United States, the Director of the IS00, and other Government agencies, as appropriate; conducts a Systematic Review of NSI documents as they approach 20 years of age (30 years for foreign government information); and recommends to the Secretary any specific information or documents that should not be declassified at that time.
 - (3) Publishes in the "Federal Register" those DOE regulations that implement classification aspects of EO 12065; submits such regulations for review by the IS00.
 - (4) Makes recommendations to the Secretary with regard to the determination of categories of information related to national security and requiring protection against unauthorized disclosure pursuant to section 1-301(g) of EO 12065; ensures that such determinations are reported to the IS00.
 - (5) Makes recommendations to the Secretary concerning the designation of Top Secret Authorized Original Classifiers; acts for the Secretary in designating Secret and Confidential Authorized Original Classifiers in organizations that do not have Top Secret original classification authority and are not

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- under the immediate jurisdiction of a Top Secret Authorized Original Classifier. Monitors the requirements for and use of original classification authority in DOE and DOE contractor organizations; and maintains a list of all DOE and DOE contractor Authorized Original Classifiers.
- (6) Acts for the Secretary in designating Authorized Declassifiers and maintains a record of all DOE and DOE contractor Authorized Declassifiers.
 - (7) Requests from the ISOO waivers for NSI, as necessary, from the portion marking requirement of EO 12065, section 1-504.
 - (8) Represents the Secretary on the Interagency Information Security Committee; acts as the DOE contact with the ISOO; and advises the Secretary and DP-1 with regard to actions and determinations made by the Director of the ISOO affecting the DOE.
 - (9) Collects information for, and prepares and submits reports to the ISOO as required by EO 12065, its implementing directives, and requests of the ISOO.
 - (10) Is the central DOE authority for receiving all requests for declassification review of information under the Mandatory Review provisions of EO 12065.
 - (11) Determines, in coordination with appropriate DOE program organizations, whether the public interest in disclosure of specific NSI outweighs the damage to national security that might reasonably be expected from its disclosure, when such questions arise (section 3-303, EO 12065). [Balancing Test.]
 - (12) Exercises, as necessary, for documents originated before 12-1-78 (the effective date of EO 12065), the authority granted by section 1-606 of EO 12065. (See subparagraph 1d.)
 - (13) Designates personnel, as required, to assist the Archivist of the United States in the Systematic Review of classified information of interest to the DOE.
- k. Conducts a continuous review of the DOE classification and declassification program to ensure compliance with the classification and declassification provisions of the Atomic Energy Act, EO 12065, and this manual.

- l. Appraises the effectiveness of the classification functions of DOE organizations; provides reports of such appraisals to heads of DOE organizations concerned.
- m. Develops classification and declassification education and training programs, and administers such programs for HQ personnel and, as required, field organization personnel.
- n. Reviews all classified documents requested from the DOE under the FOIA, determines the proper classification thereof, and is the DOE denying official with regard to the denial of classified information pursuant to the FOIA; advises system managers with regard to classified documents requested pursuant to the Privacy Act of 1974.
- o. Reviews all testimony, transcripts, and other documents prepared for the Congress and, as requested, documents prepared by Congress dealing with DOE-related programs involving classified information or where any uncertainty may exist concerning the classification of such documents.
- p. Conducts classification reviews of documents submitted by uncleared authors.
- q. Conducts classification and declassification reviews of documents and materials (including patent applications).
- r. Designates certain Authorized Derivative Classifiers; monitors the requirements for and use of derivative classification authority.
- s. Obtains service of field organizations, contractor personnel, or private consultants, when necessary, in the classification and declassification programs.
- t. Approves, after coordination with the appropriate HQ organization, a procedure for discharging classification and declassification responsibilities and authorities related to its HQ-administered contracts.
- u. Advises and assists heads of DOE organizations with regard to classification and declassification policies and procedures and changes thereto; provides operational guidance to Classification Officers.
- v. Maintains liaison with, serves as the DOE contact with, and, as appropriate, provides classification and declassification guidance

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and training to other Government agencies and private interests on matters concerning DOE classification and declassification policies and procedures.

- w. Maintains liaison and serves as DOE contact with foreign governments on matters concerning classification and declassification of information.
- x. Represents DP-1 on the Technical Evaluation Panel.
- y. Makes recommendations to DP-1 regarding the appointment of members and consultants to the Technical Evaluation Panel.
- z. Appoints Responsible Reviewers.
- aa. Performs other functions assigned by DP-1.

6. DIRECTOR OF SAFEGUARDS AND SECURITY, DIRECTOR OF INTERNATIONAL SECURITY AFFAIRS, AND THE COUNSEL FOR DEFENSE PROGRAMS serve as permanent members of the Classification Review Committee.

7. HEADS OF HQ ORGANIZATIONS.

- a. Discharge, in relation to their own organization, the responsibilities and authorities specified in subparagraphs 8a-h.
- b. Establish with the approval of the Director of Classification a procedure to carry out an appropriate classification program for HQ-administered contracts. (Heads of HQ organizations have the same responsibilities and authorities for HQ-administered contracts as are specified for heads of field organizations under paragraph 8.)
- c. Inform the Office of Classification of all proposed projects or HQ-administered contracts that could involve classified information so that the Office of Classification may assure that appropriate and adequate classification guidance exists or is prepared and provided for such projects or contracts.
- d. Appoint, as needed, an individual to be responsible for liaison with the Office of Classification, or otherwise arrange to receive day-to-day classification assistance from the Office of Classification.
- e. Assure participation by personnel with classification responsibility in the earliest stages of planning of new programs that have a potential for involving or generating classified information.

- f. Appoint a representative to meet with the Classification Review Committee when requested to do so by the Committee Chairman.

8. HEADS OF FIELD ORGANIZATIONS.

- a. Establish internal procedures to assure compliance with provisions of this manual.
- b. Obtain classification guidance from the Office of Classification for programs under their purview that have a potential for involving or generating classified information; assure that all employees in organizations under their supervision receive adequate classification guidance for their work.
- c. Designate, or obtain or assure designation of, Authorized Classifiers, as necessary, for their organization and organizations under their jurisdiction.
- d. Provide the Office of Classification information required to be maintained by the Office of Classification or reported to the IS00 in accordance with EO 12065 and its implementing directives, or as specified in this manual.
- e. Establish, when appropriate, procedures for the declassification review of accumulations of classified documents in DOE and DOE contractor files as soon as possible after any change in classification policy or guides makes it probable that significant numbers of those documents might be declassified.
- f. Develop and conduct classification appraisals of subordinate organizations and contractor organizations involved with classified information whose contracts they administer; follow up on appraisal findings requiring corrective action; take action on recommendations made in appraisals of the classification programs under their supervision; ensure that major prime contractor organizations conduct classification appraisals of subcontractor organizations involved with classified information.
- g. Take appropriate and prompt corrective action whenever a classification violation occurs within their organization.
- h. Assist the Office of Classification in preparing program classification guides or revisions thereto.
- i. Assure that installations under their jurisdiction prepare local classification guides (or receive program classification guides approved for this purpose) covering all classified work being performed.

- j. Submit proposed local classification guides and significant changes in local classification guides to the Director of Classification for approval prior to their issuance.
 - k. Designate, when needed, with the concurrence of the Director of Classification, persons to serve as DOE Classification Officers.
 - l. Assure that appropriate Classification Officers are advised of forthcoming briefings on proposed programs expected to involve classified information to assure the participation of classification representatives in the earliest stages of planning of such programs.
 - m. Assure that approved classification guidance is included with requests for authorization of new work initiated by their organizations when such work has a potential for involving or generating classified information, and provide copies of such guidance to the Office of Classification at the time of initial distribution.
 - n. Assure that all formal reports written within their jurisdiction in fields that are even partially classified and which are intended for unclassified release are reviewed for classified information by a Classification Officer prior to their unclassified use.
 - o. Assure that papers or presentations involving sensitive information identified by the Director of Classification, to be presented as unclassified by DOE or contractor personnel under their jurisdiction, are submitted to classification authorities for review prior to unclassified use.
 - p. Assure that DOE and DOE contractor personnel within their jurisdiction who deliver papers at conferences are thoroughly informed by classification representatives on existing classification guidance in the fields of their respective papers and advised as to potential danger areas in the discussion following their presentation.
 - q. Assure that an appropriate classification education program is conducted for DOE and DOE contractor organizations under their jurisdiction.
 - r. Appoint Classification Boards, as appropriate.
 - s. Assure that Systematic Reviews are conducted as required by EO 12065 and this manual.
9. HEADS OF CONTRACTOR ORGANIZATIONS discharge, in relation to their own organization, subcontractors, and suppliers, the responsibilities and authorities specified for heads of field organizations in paragraph

8. If such responsibilities involve submitting information to the Office of Classification, unless otherwise directed such submission should be made through the appropriate field office or HQ organization.

10. CLASSIFICATION OFFICERS.

- a. Assist or act for the head of their field organization or contractor organization, as appropriate, in exercising their responsibilities and authorities with regard to classification and declassification.
- b. Provide classification guidance to employees within their organization and, where necessary, to contractors (or subcontractors, as appropriate).
- c. Coordinate the preparation of local classification guides for fields of operation or programs within their purview.
- d. Provide technical advice, as requested, to the Director of Classification on classification matters of mutual interest.
- e. Initiate classification and declassification reviews of documents originated within their organizations.
- f. Review reports to ascertain whether they are suitable to submit for formal declassification review by the Office of Classification.
- g. Conduct classification appraisals of contractor organizations (or subcontractor organizations, as appropriate).
- h. Conduct a classification education program for their organization and assure that appropriate classification education programs are conducted at subordinate contractors (or subcontractors, as appropriate).
- i. Maintain continuous contact with appropriate technical staff personnel and conduct liaison with other Classification Officers in related programs.

11. RESPONSIBLE REVIEWERS.

- a. Advise the Director of Classification with regard to the classification of information within their fields of competence.
- b. Make recommendations to the Office of Classification regarding the declassification or continued classification of documents or materials submitted for their review.

12. TECHNICAL EVALUATION PANEL.

- a. Provides technical expertise and assistance in the evaluation of DOE's nuclear programs in order to assist DP-1 in discharging his duties and responsibilities for the classification and declassification of information related to these programs.
- b. Reviews and provides technical evaluations with regard to specific items proposed for declassification, upon request of the Director of Classification or DP-1.

13. CLASSIFICATION REVIEW COMMITTEE.

- a. Resolves all suggestions and complaints concerning the DOE classification and declassification program that are not otherwise resolved.
- b. Reviews all appeals of denials of requests for classified documents made pursuant to the Mandatory Review provisions of EO 12065.

14. AUTHORIZED CLASSIFIERS.a. Authorized Original Classifiers.

- (1) Originally classify NSI (whenever classification guidance, classified source documents, or other direction of another Authorized Original Classifier does not exist for the information). Such determinations may be made only up to the level to which the classifier has been authorized (Top Secret, Secret, or Confidential), and may not be inconsistent with established DOE classification policy. (Note: Original classification authority is not necessary to determine that documents or materials contain RD or FRD. See subparagraph 14b.)
- (2) Submit to the Director of Classification recommendations for the development of a Departmentwide policy concerning information they originally classify so that appropriate classification guidance can be issued.
- (3) Derivatively classify documents or material up to the level of their original authority.
- (4) Declassify or downgrade NSI information, documents, or material which they, their predecessor(s), or their subordinates originally classified, so long as such action is not inconsistent with DOE classification policy and guidance.

- (5) Top Secret Authorized Original Classifiers. In addition to the foregoing authorities, Top Secret Authorized Original Classifiers:
- (a) Are authorized to classify NSI for up to 20 years (30 years for foreign government information), consistent with DOE classification policy.
 - (b) Designate, as Secret and/or Confidential Authorized Original Classifiers without redelegation authority, and subject to approval of the Office of Classification, those of their subordinates who have a frequent need to exercise original classification authority.
 - (c) Designate as Authorized Derivative Classifiers those of their subordinates who have a frequent need to exercise derivative classification authority. (See subparagraph 14b.)

- b. Authorized Derivative Classifiers classify documents and material up to the level of classification to which they have been authorized. This authority applies to the classification of documents and materials that contain RD or FRD as well as to those which contain NSI only. They may classify documents and material, or change the classification of documents or material that they classified, only on the basis of classification guides authorized for their use, classified source documents, or other instructions from an Authorized Original Classifier. Only heads of DOE or DOE contractor organizations with original or derivative classification authority who have been authorized to do so may designate as Authorized Derivative Classifiers those of their subordinates who have a frequent need to exercise such authority. The authority to make such designations may be delegated to a principal subordinate (e.g., the Classification Officer).

15. DOWNGRADING AND DECLASSIFICATION OFFICIALS.

a. Persons Authorized to Declassify and/or Downgrade Information.

- (1) NSI not covered by DOE classification policy or a DOE classification guide may be declassified and/or downgraded by those responsible for originally classifying such information (but only as long as they hold the same position or a supervisory position thereto in which they originally classified the information) so long as they remain Authorized Original

Classifiers. Such information may also be declassified and/or downgraded by supervisors or successors to the persons who originally classified it, but only if such supervisors or successors are Authorized Original Classifiers.

- (2) NSI covered by DOE classification policy may only be declassified and/or downgraded by the Director of Classification or DP-1 or higher authority.
- (3) RD and FRD may be declassified only by DP-1.
- (4) RD and FRD may be downgraded only by DP-1 or the Director of Classification.

b. Authorized Declassifiers.

- (1) Declassify documents and material in the areas in which they have been delegated such authority and which disclose only:
 - (a) Information falling wholly within the "Unclassified" topics of the "Guide to the Unclassified Fields of Research";
 - (b) Information identified as unclassified in a classification guide approved for their use in declassifying documents;
 - (c) Information identified as unclassified or which has been declassified by the Director of Classification;
 - (d) Information identical with that disclosed by a previously properly declassified document; or
 - (e) Purely administrative information and revealing no technical or programmatic data.
- (2) Downgrade documents and material originated under their jurisdiction in accordance with:
 - (a) Classification guides approved for their use in downgrading documents; or
 - (b) Instructions from the Director of Classification.

16. DOE AND DOE CONTRACTOR PERSONNEL.

- a. Refer questions concerning classification or declassification of information, documents, or material to an Authorized Classifier,

their classification office, or through channels to the Office of Classification.

- b. Obtain a determination from an Authorized Classifier on information, documents, or material whose classification is questioned.
- c. Refer suggestions, complaints, or challenges concerning the DOE classification and declassification program to their classification office or the Office of Classification.

CHAPTER IV
CLASSIFICATION

1. CLASSIFICATION AUTHORITY. The DOE distinguishes between "original" and "derivative" classification authority. The difference between these two authorities are presented in subparagraphs 1a and 1b. (All designations of classification authority must be consistent with DOE personnel security regulations.)
 - a. Original Classification Authority. Authorized Original Classifiers are those who have been designated as classifiers pursuant to EO 12065. They may be delegated the authority to originally classify information at the Top Secret, Secret, or Confidential levels.
 - (1) Designation of Authorized Original Classifiers.
 - (a) Top Secret Authorized Original Classifiers.
 - 1 The Secretary of Energy has been designated as a Top Secret Authorized Original Classifier by EO 12065.
 - 2 Only the Secretary may designate as Top Secret Authorized Original Classifiers those of his principal subordinates who have a frequent need to exercise such authority. Each delegation of such authority shall be in writing by title of position held. The number of such delegations shall be held to an absolute minimum. The Director of Classification will monitor the requirements for and use of such authority and is responsible for making recommendations to the Secretary concerning the designation of Top Secret Authorized Original Classifiers.
 - (b) Secret and Confidential Authorized Original Classifiers.
 - 1 Only Top Secret Authorized Original Classifiers may designate as Secret or Confidential Authorized Original Classifiers those of their subordinates who have a frequent need to exercise such authority. Each delegation of such authority shall be in writing, and shall specify the names and position titles of the persons so authorized. The number of such delegations shall be held to an absolute minimum. All delegations of such authority will be made in consultation with and with the concurrence of the Director of Classification,

who will monitor the requirements for and use of such authority.

2 The Director of Classification acts for the Secretary in designating Secret and Confidential Authorized Original Classifiers in organizations which do not have Top Secret original classification authority and which are not under the immediate jurisdiction of a Top Secret Authorized Original Classifier. Requests for original classification authority for persons in such organizations shall be made in writing to the Director of Classification and shall specify the names and position titles of those for whom such authority is requested, the name(s) of their organization(s), and a brief explanation of the reason such authority is needed, including the anticipated frequency such authority will be exercised. All delegations of classification authority shall be in writing, specifying the names and position titles of the persons so designated. A copy of the written designation shall be supplied to the person so designated.

3 When a person with original classification authority changes position, the organization in which such change occurs will promptly notify the Office of Classification.

(2) Cancellation of Original Classification Authority.

(a) Top Secret Original Classification Authority.

1 When an organization determines that it or a subordinate organization no longer requires Top Secret original classification authority, it shall promptly notify the Office of Classification, specifying the name and position title of the person from whom such authority shall be divested and the effective date of such divestiture.

2 When the Director of Classification determines that an organization no longer requires Top Secret original classification authority, he shall recommend to the person concerned that such authority be cancelled, specifying the reasons therefor. If no agreement can be reached regarding the disposition of the affected classification authority, the Director of Classification may refer the matter to DP-1 for final determination.

3 When Top Secret original classification authority is cancelled pursuant to the foregoing proceedings, it may not be reinstated except by an action of the Secretary.

(b) Secret and Confidential Original Classification Authority.

1 When an organization determines that a position no longer requires Secret or Confidential classification authority, it shall promptly notify the Office of Classification, specifying the position title, the name of the person who holds or last held the position, and the effective date of cancellation of authority.

2 When the Director of Classification determines that a position no longer requires Secret or Confidential classification authority, he shall recommend to the head of the organization of the person concerned that such authority be cancelled, specifying the reasons therefor. If no agreement can be reached regarding the disposition of the affected classification authority, the Director of Classification may refer the matter to DP-1 for final determination.

b. Derivative Classification Authority. Authorized Derivative Classifiers are those designated pursuant to this manual to derivatively classify documents or material. A derivative classification action is one in which information is classified in accordance with a classification guide, a classified source document, or other direction of an Authorized Original Classifier. Authorized Derivative Classifiers may not classify information, nor can they classify documents or material except as provided in this subparagraph.

(1) Designation of Authorized Derivative Classifiers.

(a) The Director of Classification is authorized to designate as Authorized Derivative Classifiers the heads of those organizations that do not have original classification authority but who require derivative classification authority. Heads of organizations who do not have original or derivative classification authority, and who are not under the immediate jurisdiction of an Authorized Classifier shall direct requests for derivative classification authority to the Director of Classification. When heads of organizations are under the immediate jurisdiction of an Authorized Classifier, they shall direct requests for derivative classification authority to that person.

- (b) Only those heads of DOE and DOE contractor organizations with original or derivative classification authority who have been given redelegation authority may designate as Authorized Derivative Classifiers those of their subordinates who have a frequent need to exercise such authority. Each such designation shall be in writing, and shall specify the names and position titles of those authorized. The number of such designations shall be held to an absolute minimum.
 - (c) Those who delegate derivative classification authority may delegate such authority only to the level to which they are authorized to classify and may specify whether and to what extent the authority may be redelegated.
- (2) Cancellation of Derivative Classification Authority. An organization may determine at any time that a position no longer requires derivative classification authority. Such authority, once removed, cannot be reinstated except through the procedures specified in subparagraph 1b(1). When it is determined that a person who has been delegated derivative classification authority by the Director of Classification no longer requires such authority, the Office of Classification shall be promptly notified, specifying the person's name and position title and the effective date of cancellation. When the Director of Classification determines that a position no longer requires derivative classification authority, he shall recommend to the head of the organization of the person concerned that such authority be cancelled, specifying the reasons therefor. If no agreement can be reached regarding the disposition of the affected classification authority, the Director of Classification may refer the matter to DP-1 for final determination.
- c. Alternate Classifiers. Those acting in place of Authorized Classifiers in their absence may exercise their classification authority.
 - d. Record and Reporting Requirements.
 - (1) The Office of Classification will maintain a list of Authorized Original Classifiers by name and position title. Each organization that has Authorized Original Classifiers shall make periodic reports of the names and titles of such authorities as requested by the Office of Classification pursuant to requirements of EO 12065, its implementing directives, and directives of the IS00.

- (2) Each organization that has Authorized Derivative Classifiers shall make periodic reports of the number of such authorities as requested by the Office of Classification. Each such organization shall maintain as a matter of record within that organization a list of the names, titles, and dates of appointment of all its Authorized Derivative Classifiers. Such lists shall be made available to the Director of Classification or his representative on request.

2. CLASSIFICATION GUIDES.

a. Types.

(1) The "Classification Policy Guide".

- (a) The "Classification Policy Guide" identifies information falling within the purview of the Atomic Energy Act that remains classified or that has been declassified pursuant to section 142 of that Act. The "Classification Policy Guide" also identifies NSI related to DOE programs that has been classified pursuant to EO 12065 (or previous EO's) or that has been declassified or determined to be unclassified. The "Classification Policy Guide" requires the approval of DP-1.
- (b) The Office of Classification develops new versions or revisions to the "Classification Policy Guide" in consultation with the United Kingdom and Canada and with other Government agencies and DOE and DOE contractor personnel, as appropriate. Upon approval of DP-1, the Office of Classification implements the policy.

(2) The "Guide to the Unclassified Fields of Research".

- (a) The "Guide to the Unclassified Fields of Research" identifies areas of work in which information may be generated as unclassified. It is approved by the Director of Classification and may be used to determine that documents and other forms of information are unclassified.
- (b) Originators (even those who are not Authorized Classifiers) may issue a document or material as unclassified when it has entirely evolved from, and relates only to, work that appropriate authority (such as the Director of Classification or heads of DOE organizations) has determined to fall completely within the "Unclassified" topics in the "Guide to the Unclassified Fields of Research."

- (c) When a document has evolved from and relates to work that appropriate authority has not determined to fall completely within "Unclassified" topics in the "Guide to the Unclassified Fields of Research," the originator may issue it as unclassified only when the information revealed falls clearly and wholly within the scope of previously declassified documents or is purely administrative information and reveals no technical or programmatic information.

(3) Program Classification Guides.

- (a) Program classification guides are based on the "Classification Policy Guide" and, through topics written in specific terms, denote how classification policy is to be applied to a particular DOE program. Program classification guides are issued to cover RD and FRD as well as NSI. Program classification guides dealing with RD and FRD indicate the proper classification level for such information. Those for NSI indicate (in accordance with EO 12065) the classification level, the duration of classification, and the reason for extension of classification beyond 6 years (if any such information is described in the guide).
- (b) Program classification guides frequently involve the mission of more than one field organization or the work of another Government agency. They cannot extend the scope of the declassification actions cited in the "Classification Policy Guide." Because program classification guides are an implementation of the "Classification Policy Guide," their issuance or revision is the responsibility of the Director of Classification, who approves them and coordinates them with other Government agencies and foreign governments as required.
- (c) New program classification guides are developed by the Office of Classification usually in conjunction with other Government agencies and/or DOE organizations responsible for the work, and with DOE and DOE contractor personnel intimately involved in the performance of the work.
- (d) Upon approval of a program classification guide by the Director of Classification (and other Government agencies, as appropriate), the Office of Classification issues it to the appropriate heads of DOE organizations and other individuals such as the Technical Evaluation Panel

and RR's for their information and use as authorization for classification decisions.

(4) Local Classification Guides.

- (a) Local classification guides are based on program classification guides and provide detailed classification guidance. Although format varies, the content of local classification guides is similar to that of program classification guides with regard to indicating classification level, duration, etc.
 - (b) Heads of DOE organizations are responsible for assuring that local classification guides are prepared for all classified work within the jurisdiction of their organizations. Local classification guides cannot exceed the scope of the declassification actions reflected in program classification guides or other guidance approved by the Office of Classification. Local classification guides must be submitted to the Director of Classification for review and approval before implementation.
 - (c) Guidance prepared by DOE organizations or contractors which exceeds the scope of approved local classification guides constitutes a new or revised local classification guide that the Director of Classification must approve before issuance.
 - (d) ~~Unless otherwise directed by the Office of Classification,~~ approved local classification guides may be disseminated to other organizations as required. If the area of responsibility of more than one field organization or of another Government agency (such as the DOD) or of a foreign government is involved, the Office of Classification will determine whether a classification guide should be a program classification guide.
- b. Use of Classification Guides and Classified Source Documents. Except for the "Guide to the Unclassified Fields of Research," classification guides and classified source documents may be used only by Authorized Classifiers to determine the proper classification of information, documents, or material. Because use of classification guides often involves judgments and interpretations of topics, they should be authorized for use only by those who are intimately familiar with the information covered by the guides. Authorized Classifiers may use only those classification guides approved for their use. They must follow the guidance appearing in the classification guide when classifying a document or material. When the

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guidance in two or more topics in classification guides appears to conflict, the Authorized Classifier should refer the matter to higher authority (such as a Classification Officer or the Office of Classification). Until the conflict is resolved, the document concerned should be marked and protected in accordance with the most restrictive guidance. Those who derivatively classify documents or materials shall verify the classification of source documents to the extent practicable. (See also subparagraph 3c(3).)

3. CLASSIFICATION PROCEDURES.

a. Source of Authority.

- (1) Information Under the Purview of the Atomic Energy Act. The authority for the classification of information falling within the definitions of RD and FRD, and for the classification of documents or materials containing RD or FRD is the Atomic Energy Act. Documents containing RD or FRD may only be classified by Authorized Classifiers (either original or derivative), and only in accordance with classification guides or written notification of the Director of Classification. Note: If information appears to fall under the purview of the Atomic Energy Act but is not covered by approved classification policy or guidance, it should be handled as RD and submitted through channels to the Office of Classification for review.
- (2) Information Under the Purview of EO 12065. The authority for classification of NSI and for the classification of documents and material containing NSI is the Authorized Original Classifier responsible for making the original classification determination concerning the information. In general, NSI will be covered by a classification guide (approved by the Director of Classification) or the "Classification Policy Guide" (approved by DP-1).

b. Classification Criteria.

- (1) Restricted Data and Formerly Restricted Data. Information under the purview of the Atomic Energy Act is classified at its inception by that Act. There is no original determination required to classify such information.
- (2) National Security Information.
 - (a) Conditions for Classification. The following two conditions must be met before information may be classified pursuant to EO 12065:

- 1 The information must concern at least one of the following areas:
 - a Military plans, weapons, or operations;
 - b Foreign government information;
 - c Intelligence activities, sources, or methods;
 - d Foreign relations or foreign activities of the United States;
 - e Scientific, technological, or economic matters relating to the national security;
 - f United States Government programs for safeguarding nuclear materials or facilities; or
 - g Other areas of information related to national security which require protection against unauthorized disclosure as determined by the Secretary of Energy. (The Director of Classification is responsible for recommending such categories to the Secretary as candidates for classification.)
- 2 Unauthorized disclosure of the information could reasonably be expected to cause at least identifiable damage to the national security. (Unauthorized disclosure of foreign government information or the identity of a confidential foreign source is presumed by EO 12065 to cause at least identifiable damage to the national security.)

(b) Prohibitions.

- 1 Classification may not be used to conceal violations of law, inefficiency, administrative error, to prevent embarrassment to a person, organization, or agency, or to restrain competition.
- 2 Basic scientific research information not clearly related to the national security may not be classified.
- 3 A product of non-Government research and development (R&D) that does not incorporate or reveal classified information to which the producer or developer was given prior access may not be classified until and unless the Government acquires a proprietary interest

in the product. (This does not affect the provisions of the Patent Secrecy Act of 1952.)

4 References to classified documents that do not disclose classified information may not be classified or used as a basis for classification.

5 Classification may not be used to limit dissemination of information that is not classifiable or to prevent or delay the public release of such information.

- c. Level of Classification. EO 12065 specifies three levels for classification of NSI. The designations used to specify levels of protection for RD and FRD are the same as those used for NSI.

(1) Classification Levels.

(a) Top Secret shall be used only for information, the unauthorized disclosure of which could reasonably be expected to cause exceptionally grave damage to the national security.

(b) Secret shall be used only for information, the unauthorized disclosure of which could reasonably be expected to cause serious damage to the national security.

(c) Confidential shall be used only for information, the unauthorized disclosure of which could reasonably be expected to cause identifiable damage to the national security.

(2) Only the three foregoing designations can be used to identify the level of classified information. The term "Unclassified" is used to indicate information that is not classified pursuant to an EO or a statute. Unclassified information normally is not marked as such except to distinguish it from classified information in a classified document when such a distinction is required or serves a useful purpose. Wholly unclassified documents or materials normally need not be marked "Unclassified" unless such a marking would serve a useful purpose.

(3) The proper classification level of information or whether information is classified is determined on the basis not only of what the information itself reveals, but also of what may be revealed through association with unclassified information. The determination of whether information should be classified must be based on the assumption that anyone who receives

the information is highly qualified in the particular field and thoroughly familiar with unclassified information in the general subject area.

- (4) Foreign government information shall either retain its original classification designation or be assigned a United States classification designation that shall ensure a degree of protection equivalent to that required by the entity that furnished the information.

d. Duration of Classification.

- (1) Restricted Data and Formerly Restricted Data are classified until declassified by DP-1 or, in the case of FRD, by a joint action of DP-1 and the DOD.
- (2) National Security Information.
 - (a) Except as permitted in subparagraph 3d(2)(b), at the time of original classification of information the Authorized Original Classifier shall set a date or event for automatic declassification no more than 6 years later.
 - (b) Only Top Secret Authorized Original Classifiers may classify information for more than 6 years from the date of original classification. This authority shall be used sparingly. In such cases, the Top Secret Authorized Original Classifier shall set a declassification date or event or a date for declassification review, which shall be as early as national security permits and shall be no more than 20 years after original classification, except that for foreign government information the date or event may be up to 30 years after original classification.
 - (c) Foreign government information will not be assigned a date or event for automatic declassification unless such is specified or agreed to by the foreign government or international organization of governments.

e. Determination of Classification Markings for Documents and Material.
(Note: The following requirements apply to materials, to the extent appropriate, as well as to documents.)

- (1) Interpretation of Guidance. Those classifying documents on the basis of classification guides or the classification of source documents used in generating such documents shall classify the documents in accordance with the classification guidance

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contained in the classification guides or source documents, as the case may be. When Authorized Classifiers are in doubt about the proper interpretation of a classification guide topic or as to which topic applies, they should refer the matter promptly to the next higher classification authority. The Office of Classification is the final authority for determining proper classification. When Authorized Classifiers are in doubt about the proper classification of information extracted from a classified source document, they should request a determination from its original classifier. If the original classifier cannot be determined, they should then refer the matter to the next higher classification authority.

- (2) Classification Level. Classified documents generated within the DOE or its contractor organizations will be classified and marked to show the classification levels (i.e., Top Secret, Secret, Confidential) or the designation "Unclassified", as follows:
- (a) Documents will be marked as a whole to indicate the highest classification of information they contain. The overall classification of a file or grouping of unattached documents or of a group of physically connected documents shall be at least the most restrictive classification of any document therein.
 - (b) Titles and Subject Lines. Titles of documents and subject lines on correspondence should be unclassified, if possible, since they often are used for reference on mail logs, document receipts, and other correspondence. If classified information must be included in the title or subject line, the classification level and category must be indicated.
 - (c) Portion and Page Marking of NSI Documents.
 - 1 Each portion of a document classified in accordance with EO 12065 and containing no RD or FRD will be marked with its classification level (i.e., Top Secret, Secret, and Confidential) or the designation "Unclassified," unless the Director of the ISOO has granted a waiver for that specific class of documents or information. Each portion of a classified document need not be separately marked if all portions are classified at the same level and a statement to that effect is included in the document. When individual portion marking is impracticable, the document shall contain a description sufficient to identify the

classified information and its classification level. Requests for portion marking waivers shall be submitted to the Director of Classification, who is responsible for submitting them to the ISOO.

- 2 In establishing the classification of each portion of a document, the information in that portion should not be considered as if it were isolated, but should be viewed in the context of the entire document and other known existing information on the same subject.
 - 3 When a comparatively small amount of classified information is to be included in a document, consideration should be given to placing that information in a separate classified annex so that the principal document may be unclassified. The same principle should be applied when a document classified primarily at one level contains a comparatively small amount of information at a higher level.
 - 4 Each page of a classified document shall be marked to indicate either the highest overall classification of the document or the highest classification of information on that page. The same scheme shall be used throughout a document. (Note: This subparagraph also applies to RD and FRD documents.)
- (d) Change of Obsolete Marking "Restricted". The classification "Restricted" is obsolete. Old documents marked "Restricted" shall be reviewed, when encountered, by an Authorized Classifier or Authorized Declassifier to determine whether they contain information that is classified under current classification guides or whether the information is now unclassified. The markings of such documents shall be changed to show the proper classification of the information contained. Pending this review such documents shall be considered classified and safeguarded accordingly. This instruction also applies to documents bearing the marking "Official Use Only" that were prepared between 7-18-49 and 10-22-51, when that marking within the former Atomic Energy Commission (AEC) was the equivalent of the security classification "Restricted." Note that "Restricted" is an active classification marking used by some foreign governments and international organizations (e.g., United Kingdom and NATO).

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- (3) Classification Category. Those who classify documents or materials shall indicate thereon the classification category (i.e., RD, FRD, or NSI). There is a hierarchy of classification categories: RD, FRD, NSI (in descending order). When a document contains RD, it shall be marked as RD. Documents containing FRD, but not RD, will be marked as FRD. Documents containing NSI, but no RD or FRD, will be marked as NSI.
- (4) Special Markings. Special markings indicating sources of information (such as "Foreign Government Information," "NATO", "WNINTEL", etc.) or distribution controls (such as "NOFORN") shall be used on classified documents when such markings are prescribed by a classification guide, source document, or EO, or specific guidance derived therefrom.
- (5) Classification Authority. In the DOE, a document must be marked to show both the original classification authority for the information it contains and, if appropriate, the Authorized Derivative Classifier who classified it. (See subparagraph 3e(5)(b) for identification requirements for derivative classification authority.)
 - (a) Identification of Original Classification Authority.

The determination of the original classification authority for a document depends on several factors, including the source and category of the information and whether the originator has original classification authority. Originators of documents who do not have classification authority, must refer such documents to an Authorized Classifier when it is reasonable to expect that the documents contain classified information, or when required to do so by regulations or other requirement. There are three cases to consider when identifying the original classification authority for information in a document.

 - 1 The Document Contains Original Information Only (i.e., Not Derived from Other Documents and Not Covered by Classification Guidance). In this case the classifier of the document must be an Authorized Original Classifier, whose name and position title must appear on the document, either as its signer or originator (when such is the case) or as its classifier.
 - 2 The Document Contains Original Classified Information as Well as Classified Information Derived from Other Sources or Covered by Classification Guidance. In this case the classifier of the document must be an Authorized Original Classifier. If the document

contains RD or FRD, there is no need to identify an original classification authority. The RD and FRD markings, which must be applied in accordance with subparagraph 3e(3), are sufficient evidence of the basis for classification of the information. If documents contain no RD or FRD, the classifiers may either (a) identify themselves as the original classification authorities for the documents, giving their names and position titles on the documents, either as the signers or originators of the documents (when such is the case) or as their classifiers, or (b) identify on the record or file copies of the documents each of the classification authorities (including themselves) for the information contained in the documents. If the classification authority is a classification guide or other document, it must be referred to with sufficient particularity to be identified and located. On all copies of the document, except the record or file copy, the reference "Multiple Sources" may be used to identify the classification authority.

3 The Document Contains Only Information Derived from Other Sources or Is Covered by Classification Guidance.

In this case the classifier of the document may be either an Authorized Original Classifier or an Authorized Derivative Classifier. If the document contains RD or FRD, the requirements for RD and FRD under subparagraph 3e(5)(a)2 apply. Otherwise, the identities of the authorities for all classified information in the document must appear on the record or file copy, as required by subparagraph 3e(5)(a)2 for documents with no RD or FRD. On all other copies of the document the reference "Multiple Sources" may be used to identify the classification authorities if there is more than one original classification authority for the documents; otherwise, the original classification authority must appear on all copies of the document.

(b) Identification of Derivative Classification Authority.

All derivatively classified documents must be marked with the name and position title of the Authorized Classifier, either as the signer or originator of the document (when such is the case) or as its derivative classification authority.

(6) Office of Origin. All classified documents generated within the DOE will be marked to indicate their office of origin.

(7) Date of Classification. All classified documents generated within the DOE will be marked with the date of classification of the document. If the dates of origin and classification are within 1 year of each other, only one date need be marked on the document.

(8) Date or Event for Review or Declassification.

(a) Documents Containing RD or FRD are not to be marked for automatic declassification or review.

(b) Documents Containing NSI but no RD or FRD will be marked for declassification or review in accordance with the following.

1 New documents deriving their classification from source documents other than classification guides (see subparagraph 3e(8)(b)2) classified under EO's previous to EO 12065 shall be marked for declassification or review as follows.

a If the source document bears a declassification date or event 20 years or less from the date of origin (30 years for foreign government information), that date or event shall be carried forward onto the new document.

b If the source document bears no declassification date or event or is marked for declassification beyond 20 years, the new document shall be marked with a date for review for declassification at 20 years from the date of original classification of the source document.

c If the source document contains foreign government information and bears no date or event for declassification or is marked for declassification beyond 30 years, the new document shall be marked for review for declassification at 30 years from the date of original classification of the source document.

2 New documents deriving their classification from classification guides issued before 12-1-78, shall be marked for declassification or review as follows.

a If the classification guide topic specifies a declassification date or event 20 years or less from the date of the classification guide, that date

or event shall be carried forward onto the new document.

- b If the classification guide topic indicates that the information is to be declassified in accordance with the General Declassification Schedule of E0 11652, the new document will be marked as follows: If Top Secret, the document shall be marked for declassification at 10 years from its date of origin; if Secret, the marking shall be for 8 years; and if Confidential, 6 years. The new document may also be marked for automatic downgrading at 2 years if Top Secret and/or 2 years if Secret.
 - c If the classification guide topic indicates that the information is exempt from the General Declassification Schedule of E0 11652, but that documents classified pursuant to the classification guide will be declassified within 20 years of their origination (30 years for foreign government information), then new documents will be marked to be declassified in accordance with the specified duration measured from their date of origin.
 - d If the classification guide topic indicates that the information is exempt from the General Declassification Schedule of E0 11652, with a duration of classification exceeding 20 years (30 years for foreign government information), then new documents will be marked to be reviewed at 20 years from their date of origin (30 years for foreign government information). (Note: This subparagraph also applies to information exempt from the General Declassification Schedule, but for which no declassification date or event is given.)
- 3 Documents representing original classification determinations under E0 12065 (i.e., determinations not based on any other classification policy or guidance) shall be marked with a date or event for declassification not later than 6 years from the date of original classification. However, if a Top Secret Authorized Original Classifier determines that the information should be classified for more than 6 years, the document shall be marked with a date or event for declassification or review no later than 20 years (30 years for

foreign government information) from the date of original classification.

- 4 Documents deriving their classification from source documents classified under EO 12065 shall be marked with the latest date or event for declassification or review specified for information extracted from the source documents.
 - 5 Documents deriving their classification from classification guides issued on or after 12-1-78, shall be marked with the latest date or event for declassification or review specified by the classification guides for the information concerned. Classification guides may specify that the duration of classification is to be measured from the date of classification of the document rather than from the date of the classification guide.
- (9) Person Responsible for Extended Classification Period. Except for documents classified derivatively, all NSI documents whose duration of classification exceeds 6 years, shall cite the name and position title of the Top Secret Authorized Original Classifier who authorized the extended period. (The provisions of this subparagraph do not apply to documents containing RD or FRD.)
- (10) Reasons for Extended Classification Period.
- (a) Except for documents classified derivatively, all NSI documents whose duration of classification exceeds 6 years shall be marked to indicate the reason for such extended classification. Classification guides that classify information longer than 6 years shall indicate the reasons for such extended classification. Such reasons shall be provided in the classification guide unless their inclusion would result in a classification level for the classification guide which would inhibit its desirable and required dissemination. In that case the reasons will be recorded on or with the record copy of the classification guide. (Documents containing RD or FRD do not need a reason for an extended classification period.)
 - (b) It is presumed that information that continues to meet the requirements for original classification after 6 years also requires continued protection beyond that time. The reasons for extended classification must state as a minimum why the information is expected to meet such requirements for the specified period.

4. CLASSIFICATION VIOLATIONS.

- a. All DOE and DOE contractor personnel involved with classified information shall comply with the classification and declassification requirements of the Atomic Energy Act (for RD and FRD), EO 12065 (for NSI), this manual, and classification guides issued pursuant thereto. Those who generate documents or material in DOE atomic energy programs must ensure that they are properly classified or unclassified as the case may be. Those who generate documents or material in other areas within the DOE must ensure that classified information contained therein is properly identified and protected. DOE and DOE contractor personnel shall be subject to appropriate sanctions if they knowingly and willfully:
- (1) Classify or continue the classification of information, documents, or materials in violation of EO 12065, its implementing directives, this manual, or classification guides;
 - (2) Violate any other classification provisions of EO 12065, its implementing directives, or this manual;
 - (3) Violate any provision of the Atomic Energy Act with regard to the classification or declassification of information under the purview of that Act.
- b. Such ~~sanctions~~ may include reprimand, suspension without pay, removal, termination of classification authority, or other sanction in accordance with applicable law. Heads of organizations wherein such violations occur shall ensure that appropriate and prompt corrective action is taken (including action to prevent recurrence) and shall promptly notify the Office of Classification.

5. CHALLENGES TO CLASSIFICATION.

- a. Challenging Classification. Those involved with classified information are encouraged to challenge the classification of information, a document, or material when there is reason to believe that it is classified unnecessarily, improperly, or for an inappropriate period of time. Those who wish to make such a challenge should, under normal circumstances, request that those responsible for such classifications reexamine their determinations. If satisfactory resolutions are not reached, or if the challengers do not wish to challenge the classifiers directly, they may take the matter to higher authority for resolution (e.g., the local Classification Officer or the Director of Classification), or they may follow the formal challenge procedure outlined in subparagraph 5b.

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b. Formal Challenge Procedure.

- (1) Those wishing to make formal challenges should submit such challenges either to their local DOE Classification Officer or to the Director of Classification.
- (2) Challengers wishing to maintain their anonymity may request that their supervisors or their local Classification Officers act as intermediaries in transmitting the challenges to the desired recipients. The persons making the challenge must be identified at least to the intermediaries, who will forward the challenge as requested and assure that the reply is delivered to the challenger, preserving the challenger's anonymity at all times.
- (3) Procedures used to process such challenges and related appeals will be identical to those prescribed for Mandatory Review requests (see chapter VI, subparagraph 3e(1)(a)), with the following exceptions.
 - (a) Local DOE Classification Officers will take the role of the Director of Classification if such challenge is made to them.
 - (b) Action on initial challenges will be completed within 30 days of receipt of the challenge.

- c. Suggestions or Complaints concerning the DOE classification program should be directed to the local Classification officer or to the Director of Classification. If a satisfactory response is not received regarding such suggestions or complaints, they may be referred to the Chairman of the Classification Review Committee.

6. CLASSIFICATION REVIEW OF DOCUMENTS FOR PUBLICATION.

- a. The following procedures shall be followed for the review of information, documents, or material intended for publication. Generally authors will refer documents for classification review to the Director of Classification or the local DOE classification office. If an author refers a document proposed for unclassified publication to a DOE organization other than the Office of Classification, and the content of the document falls outside the local classification authority, the document should be referred to the Office of Classification.
- b. Providing classification guidance on certain types of information submitted by those who have not been granted access to RD or FRD can constitute a risk to national security. Therefore, such

guidance shall not be given on information that: (1) deals with estimates of stockpile numbers of nuclear weapons and components, special nuclear material, or special nuclear products; (2) describes or attempts to describe nuclear weapons technology or components; (3) deals with location or number of nuclear weapons storage sites; or (4) deals with any other atomic energy subject matter in such a manner that classification review thereof could serve to confirm or deny speculations regarding the nature or substance of highly sensitive RD or FRD. If the information falls in one of the foregoing categories, the author will be advised that it is DOE policy not to comment on such matters. There may arise occasions when, or specific fields of endeavor for which, the DOE will require a more thorough or comprehensive review than set out herein. Such requirements will be established on an ad hoc basis.

- (1) Review of Documents Prepared by DOE or DOE Contractor Employees. It is recognized that DOE or DOE contractor employees involved with classified information may from time to time want to release, as unclassified, information developed, or concerning work, under their cognizance. Such proposed disclosures, whether in the form of documents, visual materials, speeches, or otherwise, must be reviewed by the local classification office or the Office of Classification to preclude the release of classified information. The Director of Classification may require that certain areas of information be reviewed by the Office of Classification.
 - (a) Formal Reports. Formal reports that cannot be determined to be unclassified under the "Guide to the Unclassified Fields of Research" pursuant to the authority delineated under subparagraph 2a(2), shall be reviewed by the Contractor Classification Officer, DOE Classification Officer, or the Director of Classification, as appropriate, before they may be determined to be unclassified.
 - (b) Conferences and Symposia. At times the DOE or its contractor organizations sponsor or participate in conferences and symposia that are intended to be unclassified but relate to sensitive programs. To minimize the risk of revealing classified information at such meetings, the following procedures apply to information pertaining to sensitive programs as identified by the Director of Classification (e.g., information relating to weapons, nuclear explosive devices, naval nuclear propulsion, and the production of special nuclear material or other critical weapon material, including pertinent isotope separation methods).

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- 1 Review of Papers. Papers that concern sensitive programs are to be submitted to DOE classification authorities for review before unclassified use. These reviews shall be conducted by a Classification Officer or the Office of Classification. Any papers determined to be clearly covered by the "Guide to the Unclassified Fields of Research" are exempt from this procedure.
 - 2 Briefings. All DOE or DOE contractor personnel who are to deliver papers that concern sensitive programs shall be thoroughly briefed by local DOE or DOE contractor classification representatives on classification guidance in the field covering the subject matter of their respective papers and advised of the danger areas in discussions following their presentations. Such briefings can take place at the conference site if more convenient.
- (2) Review of Documents Submitted by Uncleared Authors. Documents voluntarily submitted for review by an uncleared author who, to the best of the reviewer's knowledge, has never had access to classified DOE information, should be forwarded to the Office of Classification for review. After review, the Office of Classification shall advise the author, to the extent possible within the bounds of security, whether the documents contain classified information. In the course of such a review, the Office of Classification shall refer the documents to other HQ organizations and other Government agencies as it deems appropriate. If the review reveals that a document contains classified information, appropriate notification will be given to the Office of Safeguards and Security.
 - (3) Review of Documents (Patent Applications and Reports) Referred Under Sections 151(c) and 151(d) of the Atomic Energy Act.

 - (a) Reports of inventions and discoveries useful in the production and utilization of special nuclear material or atomic energy and relating to sensitive programs as identified by the Director of Classification that are forwarded by the Assistant General Counsel for Patents to the Office of Classification shall be reviewed to determine whether the reports contain classified information.
 - (b) Patent applications referred to the Assistant General Counsel for Patents by the Commissioner of Patents and Trademarks under section 151(d) of the Atomic Energy Act and forwarded to the Office of Classification shall be

reviewed to determine whether classified information is contained therein.

(c) Both reports and patent applications shall be handled in accordance with section 151(e) of the Atomic Energy Act and shall be kept in confidence by the DOE and not be referred to an RR for classification review without express written approval of the Assistant General Counsel for Patents.

(4) Review of Documents Submitted by Formerly Cleared Persons and by Authors with Active Clearances. Documents submitted by formerly "Q", "L", "TS", and "S" cleared persons, by persons with active DOE clearances (other than DOE or DOE contractor employees), and by persons formerly or presently cleared by other Government agencies shall be reviewed by Classification Officers or the Office of Classification, and the author will be required to delete any classified information contained in the document, prior to unclassified publication.

7. CATEGORIES OF NUCLEAR PROGRAMS. Nuclear programs that the DOE conducts in its own laboratories or sponsors in non-DOE facilities range from completely unclassified to wholly classified. The DOE conducts as much of this work as possible on an unclassified basis so as to promote the free interchange of ideas essential to scientific and industrial progress and public understanding, while, at the same time, safeguarding the national security. As a guide to the safeguarding of classified information, the following categories have been established for nuclear programs.

a. Category I.

- (1) A Category I program is one in which the information generated or utilized in performing the work falls wholly and clearly within the "Unclassified" topics of the "Guide to the Unclassified Fields of Research" and which, therefore, presents essentially no chance for the development of classified information. When a program qualifies for Category I, heads of HQ organizations and heads of field organizations, as appropriate, may establish it in this category. For Category I programs, no classification guidance need be furnished and no classification monitor is necessary.
- (2) When a program does not fall within the "Unclassified" topics of the "Guide to the Unclassified Fields of Research" but nevertheless presents no likelihood for developing classified information, the Director of Classification may

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establish it in Category I. When classified information is developed in or used to further a Category I program, the program shall be transferred to Category III.

b. Category II.

- (1) A Category II program is one in which the information generated or utilized in performing the work falls wholly and clearly within the "Unclassified" topics of authorized classification guides other than the "Guide to the Unclassified Fields of Research" and which has only a small potential for the development of classified information. When a program qualifies for Category II, heads of HQ organizations and heads of field organizations, as appropriate, may, when the classification guides in question have been approved for their use, establish the program in this category and authorize the work to be performed on an unclassified basis. However, the organization assigning the work shall:
 - (a) Appoint a person, usually the principal investigator, as an Authorized Classifier to monitor the work to assure that any classified information generated or utilized in the program is identified and properly classified so that appropriate security measures will be applied.
 - (b) Be responsible for providing the Authorized Classifier adequate classification guidance.
- (2) When classified information is developed in, or used to further a Category II program, the program shall be transferred to Category III.

c. Category III.

- (1) A Category III program is one in which the information generated or utilized in performing the work does not fall wholly and clearly within the "Unclassified" topics of the "Guide to the Unclassified Fields of Research" or other properly authorized classification guides and must, therefore, be conducted on a classified basis.
- (2) The organization assigning a program under Category III shall be responsible for furnishing adequate classification guidance to the contractor organization and shall request the contractor organization to appoint a Classification Officer or to arrange with the responsible DOE field organization for classification assistance.

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CHAPTER VCHANGE OF CLASSIFICATION1. SCOPE.

- a. The term "Change of Classification" means any of the following.
 - (1) Upgrading;
 - (2) Downgrading (but not declassification);
 - (3) Transclassification and change of classification category;
 - (4) Change of duration of classification.
- b. A distinction is made between change of classification of information and change of classification of documents and materials.

2. AUTHORITY TO CHANGE CLASSIFICATION.a. Information.

- (1) Restricted Data and Formerly Restricted Data. Only DP-1 is authorized to transclassify RD. (See chapter II, paragraph 2, and chapter III, paragraph 3.) The Director of Classification is the only person (other than DP-1) authorized to set and change the level of classification of RD and FRD.
- (2) National Security Information. Only the Director of Classification, DP-1 or higher authority, or Authorized Original Classifiers may upgrade, downgrade, or change the duration of classification of classified NSI, consistent with DOE classification policy. Authorized Original Classifiers only have authority over information which they, their predecessors, or their subordinates originally classified. Information may be classified beyond 6 years only by a Top Secret Authorized Original Classifier, but with the limitation that such information must be declassified or reviewed for declassification within 20 years of its origination (30 years for foreign government information). (See also chapter III, paragraph 14.)

- b. Documents and Material. A change of classification markings on documents or material may be authorized only by Authorized

Classifiers or by Authorized Declassifiers (see chapter III, paragraphs 14 and 15, for limitations on these authorities). A change of classification markings may be carried out by custodians upon receipt of notification from such proper authority. If such changes are authorized through classification guides, only those authorized to use the classification guides may make changes, or direct that changes be made, on documents or material affected by the change. Custodians of documents or materials on which an automatic change of classification has been marked may implement such changes as directed without requiring authorization to do so. (See also chapter III, paragraph 15.)

3. AUTOMATIC DOWNGRADING. Classified NSI should be designated for automatic downgrading if the classifier determines that the sensitivity of the information will diminish with the passage of time in a predictable manner. Documents or material containing such information should be marked with the schedule for their downgrading unless they also contain information not subject to automatic downgrading. Custodians of documents marked for automatic downgrading shall downgrade them as follows. (Note: The following applies to materials as well as to documents.)

a. Documents Classified Pursuant to EO 10501.

- (1) Group 3. Documents under Group 3 of EO 10501, as amended by EO ~~10964~~, shall be downgraded as follows: Top Secret to Secret at 12 years from date of origin of the document; Secret to Confidential at 12 years from origin (unless the document was originally classified as Top Secret, in which case downgrade to Confidential at 12 years from the time it was downgraded to Secret). All such documents must be reviewed for declassification at 20 years from origin (30 years for foreign government information) unless declassified earlier.
- (2) Group 4. Documents under Group 4 of EO 10501, as amended by ~~EO 10964~~, shall be downgraded as follows: If originated on or before 12-1-66, they shall be declassified immediately. If originated on or after 12-2-66, and on or before 5-31-72, downgrade to Confidential and declassify at 12 years from date of origin.
- (3) Groups 1 and 2. Documents under Groups 1 and 2 of EO 10501, as amended by ~~EO 10964~~, are not automatically downgraded.

b. Documents Classified Pursuant to EO 11652.

- (1) Advanced Declassification Schedule. Documents marked for automatic downgrading in advance of the General Declassification Schedule of EO 11625 shall be downgraded in accordance with the

schedule for downgrading marked on the documents. Unless otherwise specified on the documents, they will be subject to the General Declassification Schedule for the rest of the time they remain classified.

(2) General Declassification Schedule. Documents marked as being subject to the General Declassification Schedule of EO 11652 shall be downgraded as follows: Top Secret to Secret at 2 years from date of origin of the document, and Secret to Confidential at 2 years from date of origin (unless the document was originally classified as Top Secret, in which case it is 2 years from the time it was downgraded to Secret). Confidential documents will be declassified 6 years from date of origin (or from the date at which they were downgraded to Confidential).

(3) Exempt from the General Declassification Schedule. Documents marked as being exempt from the General Declassification Schedule of EO 11652 normally were not marked for automatic downgrading. When such documents have been marked for automatic downgrading, they shall be downgraded in accordance with the schedule for downgrading marked on the documents. If such a schedule would extend the classification of the document beyond 20 years from its date of origin (30 years for foreign government information), then the document is subject to declassification review at 20 years (30 years for foreign government information).

c. Documents Classified Pursuant to EO 12065 and marked for automatic downgrading will be downgraded in accordance with such markings.

4. NOTIFICATION OF UNSCHEDULED CHANGES. Notification of transclassification, change of duration of classification, upgrading, and unscheduled downgrading of information shall be made by written announcement and may be in the form of a classification guide. Those authorizing a change in classification of documents will ensure that all holders of the documents are notified as follows.

a. Top Secret Documents. The person authorizing the change of classification of a Top Secret document shall notify the Office of Safeguards and Security, which shall notify custodians of all copies.

b. Secret and Confidential Documents. The person authorizing the change of classification of a Secret or Confidential document shall ensure that all known holders of the document are notified.

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- c. Formal Reports. The person authorizing the change of classification of a formal report that has been distributed outside the originating organization, shall provide a copy of the change of classification notice to the Technical Information Center, Oak Ridge, Tennessee 37830, for inclusion in the "Change of Classification Notices" in "Abstracts of Limited Distribution Reports."
- d. Forwarding of Notices. If the recipient of a classification change notice has transmitted the document to another custodian, the change notice should be forwarded to the new custodian.
- e. Content of Notices. Classification change notices should identify the document as fully as possible, citing the title (or briefly describing the document), the identification number if any, the author, the document date, the person authorizing the change, and the nature and date of the change.
5. MECHANICS OF CHANGING CLASSIFICATION MARKINGS ON DOCUMENTS. The person changing the markings of a document upon receipt of proper authorization shall mark the new classification or date or event for declassification or review on the document and delete the former markings. The following statement shall also be placed on the first page of the document:

"Classification (Declassification/Review date) changed to

 (Insert appropriate classification or date)
 by authority of _____ (Date),
 _____ (Authority for change in classification)
 by _____ (Date)."

 (Signature of person making change)

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CHAPTER VIDECLASSIFICATION

1. DECLASSIFICATION AUTHORITY. Both the Atomic Energy Act and EO 12065 have specific requirements with regard to the declassification of information. (See chapter II for specific policy on the classification and declassification of information.) A distinction is made between classification of information and declassification of documents and materials.
 - a. Declassification Authority for Information Classified as RD or FRD. Only DP-1 may declassify RD and FRD. (See chapter II and chapter III, paragraph 3, for more specifics.)
 - b. Declassification Authority for NSI is limited to the original classifiers of such information, the Director of Classification, and DP-1. (See chapter III, paragraphs 14 and 15, for the extent and limitations of such authority.)
 - c. Declassification Authority for Documents and Material. Documents and material may be declassified by the Director of Classification, Authorized Original Classifiers, or Authorized Declassifiers. A custodian of classified documents or material does not require declassification authority in order to proceed in accordance with a declassification notice from an authorized source. (See chapter III, paragraphs 14 and 15, for the extent and limitations of such authority.)
 - (1) Designation of Authorized Declassifiers.
 - (a) The Director of Classification may designate qualified, personally named DOE and DOE contractor employees as Authorized Declassifiers. Only heads of DOE or DOE contractor organizations with declassification authority may be authorized to delegate declassification authority for their organizations. All delegations will be in writing and will specify the following: (1) names and position titles of those authorized to declassify; (2) the jurisdiction of the authority (limited as a maximum to the jurisdiction of the person delegating the authority); and (3) whether the authority may be redelegated. All delegations of such authority will be made in consultation with, and with the concurrence of, the Director of Classification.

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- (b) When a person who has been designated as an Authorized Declassifier changes position, the organization in which such change occurs will promptly notify the Office of Classification.
 - (c) The Office of Classification will monitor the requirements for, and use of, declassification authority and will maintain a list of names and position titles of Authorized Declassifiers.
- (2) Cancellation of Declassification Authority. When an organization determines that one of its Authorized Declassifiers no longer requires declassification authority, it shall notify the Office of Classification, specifying the name and position title of the Authorized Declassifier and the effective date of cancellation of the authority. When the Director of Classification determines that a person no longer requires declassification authority, he shall inform the Authorized Declassifier who originally delegated declassification authority to that person. The determination may be appealed within 20 working days to DP-1 for final determination. If no appeal is made within that period or DP-1 decides in favor of the original determination, the cancellation will take effect.
- (3) Record and Reporting Requirements. Each organization that has Authorized Declassifiers shall make periodic reports of the names and titles of such persons as requested by the Office of Classification pursuant to requirements of EO 12065, its implementing directives, and directives of the IS00.

2. AUTOMATIC DECLASSIFICATION.

- a. Old Documents and Material. All documents and material classified pursuant to EO 10501, as amended by EO 10964, and assigned to Group 4, shall be declassified at 12 years from their date of origin. All documents and material classified pursuant to EO 11652 and marked for declassification (1) in advance of the General Declassification Schedule, (2) in accordance with the General Declassification Schedule, or (3) exempt from the General Declassification Schedule but with a date or event for automatic declassification within 20 years of origin of the document or material (30 years for foreign government information), shall be downgraded and/or declassified in accordance with such markings.

- b. New Documents and Material. All information, documents, and material classified pursuant to EO 12065 shall be declassified or reviewed for declassification in accordance with their assigned declassification or review dates, unless declassified earlier. Restrictions on setting the classification duration of information, documents, and material classified pursuant to EO 12065 are discussed in chapter IV, subparagraph 3d.
3. UNSCHEDULED DECLASSIFICATION. Classified information, documents, and materials may be declassified at any time by persons authorized to do so, but only in accordance with DOE classification policy, classification and declassification guides, and other authorized guidance. All NSI and NSI marked documents and material must be declassified or reviewed for declassification before they reach their 20th anniversary (30th anniversary for foreign government information). Within the DOE, information, documents, and material will be reviewed in accordance with one of the following declassification review procedures.
- a. Standard Declassification Review.
- (1) The standard declassification review procedure may be used for formal reports produced as a result of work for the Manhattan Engineer District, the AEC, ERDA, the DOE, and their contractors.
 - (2) In organizations that have a Classification Officer, requests for standard declassification review will be submitted to the Classification Officer. If there is no Classification Officer, such requests will be submitted directly to the Office of Classification.
 - (3) Classification Officers who believe that reports for which standard declassification reviews are requested are declassifiable, shall transmit two copies of the report with their evaluation to the Office of Classification. A Classification Officer may also refer the report to an appropriate RR. If a patentable matter is involved, the Classification Officer shall also transmit a copy of the report to the assigned DOE patent counsel having patent surveillance of the contract or subcontract.
 - (4) Upon receipt of a request for standard declassification review, the Office of Classification may transmit a copy of the report whose review is requested to an appropriate RR for review. When RR's review reports under this provision, they shall transmit the copy of the report reviewed along with their recommendations to the Office of Classification.

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- (5) In addition to reviewing reports submitted for standard declassification review, the Office of Classification will consider the comments of the Classification Officer submitting the request, the RR, and any other organization asked to review the report. The Director of Classification will make the final determination concerning the declassification of the report. The Office of Classification will notify the Classification Officer who initiated the request, or the individual initiating the request when the request is made directly to the Office of Classification, with regard to the declassification determination. If the declassification action is taken before receipt of a patent clearance, the notice shall state that the report shall be handled as "Official Use Only" pending patent clearance. The assigned DOE patent counsel shall review reports submitted for declassification and patent review and reply directly to the Classification Officer, if one is involved, concerning the release of the report from a patent standpoint. In all cases, the assigned DOE patent counsel will notify the Office of Classification and the Manager of the Technical Information Center with regard to the releasability of the report from a patent standpoint.
- (6) Notification of declassification will be transmitted to the Classification Officer who initiated the review (for reviews initiated in this manner) or to the individual who requested the review (for requests made directly to the Office of Classification), the assigned DOE patent counsel (for reports involving patentable matters), and the Technical Information Center. Upon receipt of notification of declassification and, where appropriate, patent clearance, the Classification Officer or other initiator of the declassification review, shall assure that all holders of copies of the report are notified of the declassification.

b. Review by Authorized Declassifiers.

- (1) Authorized Declassifiers shall review documents or materials submitted to them for declassification review, in accordance with classification guidance approved for their use. If, as a result of their review, it is determined that the documents or materials are declassifiable, the reviewer will declassify them. If it is determined that the documents or material are not declassifiable in accordance with classification guidance approved for their use, but it is believed that they may be declassifiable under other guidance, the Authorized Declassifiers may refer them for further processing in accordance with subparagraph 3a to the appropriate Classification Officer, if

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one exists. If there is no appropriate Classification Officer, such referrals shall be to the Office of Classification.

- (2) Declassification of a technical document does not permit release until clearance has been obtained from the assigned DOE patent counsel. The organization declassifying the document shall ensure that it is submitted for patent clearance review.
- (3) The person who declassifies a document shall assure that known custodians of all its copies and the Office of Classification are promptly notified.

c. File Clearance Review.

- (1) Files containing classified documents that are either obsolete or deal with an activity that has been declassified or discontinued should be reviewed to declassify those documents no longer requiring security protection. Heads of DOE organizations and Classification Officers may arrange with the Office of Classification for declassification review after removal of documents for which official notification of declassification has been received, removal of all documents that can be destroyed, and review by the local Classification Officer of the documents within their declassification jurisdiction.
- (2) The Office of Classification shall review the documents in accordance with applicable classification guidance. When appropriate, the comments of an RR and/or the views of other organizations including other Government agencies or foreign governments will also be obtained. The organization requesting the review shall obtain patent clearance from the assigned DOE patent counsel for all documents declassified which concern a patentable matter. Such declassified documents shall be handled as "Official use Only" until patent clearance is received. Notices of patent clearance will be sent directly to the individual organization requesting the clearance, with a copy to the Office of Classification.

- d. Patent Application Review. The Assistant General Counsel for Patents, Office of the General Counsel, initiates requests for declassification review of all patent applications. He shall transmit one copy of the patent application to the Office of Classification, which will review it to determine if it may be declassified in accordance with current DOE classification policy. The Office of Classification may refer questions about declassification of DOE patent applications to an RR for review and recommendations. However, classified private non-DOE patent applications shall not be referred to an RR without the express written approval of the Assistant General Counsel for Patents. Such special handling

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of patent applications as is necessary to comply with section 151(e) of the Atomic Energy Act and as may be required to protect the patent position of the United States Government will be observed. Upon completion of the required review, the Office of Classification will return the patent application to the Assistant General Counsel for Patents with the determination.

- e. Review Pursuant to EO or Statute. EO 12065, the FOIA, and the Privacy Act contain provisions requiring classification review of information and documents. The procedures for carrying out such reviews are given in the following subparagraphs.
- (1) EO 12065 requires the establishment of procedures for Mandatory Review and Systematic Review for declassification of information and documents.
- (a) Mandatory Review. A member of the public, a Government employee, or a Government agency may request a Mandatory Review for declassification of information or documents. Such requests should be sent to the Director of Classification, U.S. Department of Energy, Washington, DC 20545. The following procedures will be followed in responding to such requests.
- 1 The Office of Classification will immediately acknowledge receipt of the request in writing. (Classification coordination requests from other Government agencies for information or documents requested under the Mandatory Review provisions of EO 12065 do not require such an acknowledgement.)
 - 2 If a request does not describe the information or documents to be reviewed well enough so that a search can be made, the requester shall be asked to provide more information and shall be informed that no further action will be taken unless and until the information or document requested is described well enough to conduct a search.
 - 3 Information and documents less than 10 years old originated by the President, the White House Staff, or committees or commissions appointed by the President, or by others acting on behalf of the President, are exempted from these Mandatory Review provisions. However, such information and documents over 10 years old shall be subject to Mandatory Review for declassification. Requests for Mandatory Review of such

information or documents shall be processed in accordance with procedures developed by the Archivist of the United States.

- 4 The DOE will also process Mandatory Review requests that involve RD or FRD in accordance with the Mandatory Review procedures described herein.
- 5 Every effort will be made to complete action on each request within 30 days of its receipt. If action cannot be completed within 30 days, the Director of Classification shall so advise the requester and specify why more time is necessary. Actions on all requests made pursuant to the Mandatory Review provisions of EO 12065 will be completed within 60 days of the request.
- 6 If the Director of Classification determines that requested information or documents must remain classified pursuant to the Atomic Energy Act or EO 12065, the requester shall be promptly notified in writing, with a brief statement as to why the information or documents cannot be declassified. As appropriate, classified sections of a requested document shall be identified, and the requester shall be advised that a "sanitized" document can be provided, with an appropriate unclassified description of the deleted information. When requested information or documents are denied in whole or in part, the requester shall be notified that an appeal of the determination can be made to the Classification Review Committee.
- 7 If any requested information or documents can be declassified and released, the requester shall be notified, and the information or documents will be made available to him.
- 8 Requesters who are denied information or documents on the basis of classification may appeal such denials in writing to the Chairman of the Classification Review Committee, Office of the Assistant Secretary for Defense Programs, U.S. Department of Energy, Washington, DC 20545. Appeals shall specify why the requester believes that the information or document does not warrant classification. Such appeals must be submitted to the DOE within 60 days of notification of denial of the original request.

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- 9 Immediately upon receipt of an appeal request, the Chairman of the Classification Review Committee shall bring the appeal to the attention of the permanent Committee members and any DOE organizations that may have an interest in the subject of the appeal.
- 10 The Director of Classification will provide the Chairman of the Classification Review Committee all information, documents, and other documentation pertinent to the appeal, and advise the Committee with regard to the classification of the information involved.
- 11 The Classification Review Committee will act upon and decide the appeal within 30 days of receipt of the appeal request by the Chairman of the Committee. The appeal will be decided by a simple majority vote of those serving on the Committee (one vote per organization represented), except that the Chairman will vote only to break a tie. Owing to the unique nature of RD and FRD, the Classification Review Committee cannot overturn the decision of the Director of Classification concerning denial of documents determined to contain RD or FRD. When the Committee decides that such a denial should be overturned, it will refer the matter to DP-1 for final determination.
- 12 When the Classification Review Committee has made a determination, it will promptly notify the requester of the appeal decision. If the Committee determines that any information or documents that were originally denied can be declassified and released, the Chairman will make the information or documents available to the requester. If the Committee determines that requested information or documents must remain classified, the Chairman shall give the requester a brief statement why they cannot be declassified.

(b) Systematic Review.

- 1 The Office of Classification shall issue and maintain Systematic Review guidelines for 20 year old classified NSI and 30 year old classified foreign government information in accordance with the requirements of EO 12065 and its implementing directives. Such guidelines shall be prepared in consultation with the Archivist of the United States, and, where appropriate, with the foreign government or international organization

concerned. They will be submitted to the ISOO for review. Approved guidelines will be authorized for use by the Archivist of the United States and may be approved by the Director of Classification for use by other Government agencies. Such guidelines shall be reviewed at least every 2 years and revised as necessary unless an earlier review or revision is requested by the Archivist of the United States.

2 Systematic Review Guidelines.

a Systematic Review guidelines shall state specific limited categories of information which, because of their national security sensitivity, should not be declassified automatically, but should be reviewed item-by-item to determine whether continued protection beyond 20 years (30 years for foreign government information) is needed.

b All documents that contain information (other than foreign government information) classified in accordance with an EO and not identified in these guidelines as requiring review and for which a prior automatic declassification date has not been established, shall be declassified automatically at the end of 20 years from the original classification date. The guidelines should identify foreign government information that can be declassified automatically without review, since omission of reference to such information from the guidelines does not indicate that it can be automatically declassified.

3 Classified information constituting permanently valuable records of the Government, as defined by 44 USC 2103, shall be reviewed for declassification as it becomes 20 years old (30 years for foreign government information). In accordance with EO 12065, only the Secretary may extend classification beyond 20 years for information under DOE jurisdiction (30 years for foreign government information). This authority may not be delegated. The Office of Classification shall conduct the DOE Systematic Review program. When information or documents are identified as requiring classification beyond 20 years (30 years for foreign government information), the Director of Classification

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shall prepare an action for the Secretary to authorize such extension of classification. Classification may be extended only up to 10 additional years unless the Director of the ISOO has authorized a longer time. In such cases when an extension longer than 10 years is necessary, the Director of Classification, in coordination with the DOE organizations having an interest in such extension, will prepare an action for the Secretary to request such an extension from the Director of the ISOO. Such requests will include the Secretary's personal certification (a) that the classified information for which the extension is requested was systematically reviewed; (b) that a definitive date for declassification could not then be determined; and (c) that the results of the review established an identifiable need to continue classification for at least the extended period of time requested.

4 Personnel that the Director of Classification assigns pursuant to chapter III, subparagraph 5j(13), to assist the Archivist of the United States in the Systematic Review of information shall provide guidance and assistance to National Archives employees in identifying and separating documents and specific categories of information within documents which are deemed to require continued classification.

(2) FOIA and Privacy Act Requests. Classification review and other actions regarding review of classified information and documents requested pursuant to the FOIA or the Privacy Act shall be conducted in accordance with the provisions of this manual and the DOE Order on FOIA.

(3) Confirmation of Existence of Documents. Persons responding to requests for classified documents made pursuant to the FOIA or the Mandatory Review provisions of EO 12065 may not refuse to confirm the existence or nonexistence of the documents, unless the fact of their existence or nonexistence would itself be classifiable.

f. Visual Material Review. All visual material proposed for declassification will be reviewed in accordance with the appropriate review procedures described above. Before visual materials representing weapons fabrication facilities, nuclear materials production facilities, or military reactor facilities, which include substantial information on surrounding terrain or structural features not

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obtainable through offsite or overhead reconnaissance, may be published, they must be referred to a DOE field organization or the Office of Classification, as appropriate, for review. (Such reviews will be conducted in accordance with subparagraph 3b.)

g. Other Reviews by the Office of Classification.

- (1) Under certain circumstances, the Director of Classification may determine that the declassification review of documents or material dealing with specified areas of information must be conducted by the Office of Classification.
- (2) When the head of a DOE organization or his designated representative determines that an immediate declassification review that is beyond the local declassification authority is required, or in any case if he so wishes, he may request a priority review by the Office of Classification. The Office of Classification will conduct the review for declassification in accordance with applicable classification guidance and will obtain the views of other organizations, including other Government agencies or foreign governments, when necessary. It will also, when necessary, obtain the advice of the Assistant General Counsel for Patents concerning patent clearance of the documents. Upon receipt and evaluation of required comments, the Office of Classification will return one copy of the document to the initiator of the declassification request with an official notification of final action.

4. NOTIFICATION OF DECLASSIFICATION.

- a. Where practicable, the custodian of a document that is declassified shall assure that all other custodians of copies are notified regarding the declassification action. For formal reports, a copy of the notice shall be sent to the Technical Information Center, Oak Ridge, Tennessee 37830, for inclusion in the "Change of Classification Notices" in "Abstracts of Limited Distribution Reports."
- b. The Office of Classification shall be notified promptly of each formal report declassified and the authority for the action and/or pertinent guide topic.
- c. Custodians of documents or materials marked with a date or event for automatic declassification do not require declassification authority to declassify them in accordance with those markings. When such documents or materials are declassified in accordance with such markings, it is not necessary to make notification of such action.

5. MECHANICS OF DECLASSIFYING DOCUMENTS. The person who changes the classification markings on a document to "Unclassified" upon receipt of proper authorization, shall line out the classification markings and place the following statement on the first page of the document:

"Classification cancelled by authority of

_____ (Date), by
(Declassification authority)

_____ (Date)."
(Signature of person marking the change)

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CHAPTER VIICLASSIFICATION EDUCATION1. OBJECTIVES.

- a. Employees of the DOE and its contractor organizations and others who may have access to, or generate, classified information must have an understanding of classification policies, principles, and procedures to the extent required by their duties. The classification education program is intended to provide such an understanding.
- b. For the purpose of the classification education program within the DOE and its contractor organizations, those having access to classified information may be divided into two main groups: (1) those whose activities require no decision on their part for the protection of classified information beyond those prescribed by security regulations, and (2) those who handle or generate classified information in a manner and to an extent requiring them to exercise judgment as to the presence or absence of classified information and the levels and categories of classification to be assigned.

2. IMPLEMENTATION FOR THE DOE AND ITS CONTRACTORS.

- a. Initial Classification Indoctrination. All new DOE and DOE contractor employees must understand their classification responsibilities before being given access to classified information. Before employees are authorized access to classified information, they shall be given a classification orientation by a classification representative, who shall:
 - (1) Explain what classification and classified information are, including the classification levels and the difference between RD, FRD, and NSI.
 - (2) Explain the local classification organizational structure and the channels through which the new employee should refer classification questions.
 - (3) Stress the individual's responsibility for assuring that documents are reviewed for classification.
- b. Followup Indoctrination. Within a suitable period after clearance (not to exceed 3 months), a classification representative will

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assure that new employees receive an explanation of the classification guidance covering their work. What constitutes a suitable period depends on the nature of a person's employment. Authorized Classifiers and Authorized Declassifiers shall receive a detailed explanation of pertinent classification guidance before being authorized.

- c. Continuing Classification Education. Classification awareness among employees must be maintained at a high level. Accordingly, Classification Officers or other classification representatives should conduct a program of periodically reminding fellow employees of their classification responsibilities. The following are suggested methods.

- (1) Impress supervisors with the importance of observing classification guidance and procedures, and urge that they similarly impress their subordinates.
- (2) Discuss specific classification items and problems at staff meetings.
- (3) Meet with Authorized Classifiers and Authorized Declassifiers to explain new or revised classification guidance or procedures.
- (4) Use internal publications, posters, etc., for classification messages.
- (5) Invite outside speakers in the classification field to address employees on specific aspects of the classification and declassification programs (for example, the talks presented in the past by the Director of Classification).
- (6) Invite technical and scientific personnel to speak in areas in which they have particular expertise and where classification determinations impact.

3. PRIVATE ORGANIZATIONS AND INDIVIDUALS.

- a. The statutory definition of RD is not limited to data developed in Government programs; all data that meets the statutory definition is RD, including data generated in private work. The DOE has a responsibility under the Atomic Energy Act to monitor R&D conducted by private organizations and individuals.
- b. The aspect of monitoring that involves classification education of private organizations and individuals will be the responsibility of the Office of Classification. Such education will be carried out primarily by publication in the "Federal Register" and in

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journals having wide circulation in the fields of interest to the DOE. It is expected that field classification personnel will assist in this portion of the education program by advising the Office of Classification of private R&D or other activity likely to generate RD and where, consequently, there is a need for classification education.

CHAPTER VIII

CLASSIFICATION APPRAISALS

1. POLICY. The classification practices, procedures, and performance of DOE and DOE contractor organizations shall be appraised to ascertain their adequacy and effectiveness.
2. OBJECTIVES.
 - a. To determine the effectiveness of classification personnel in implementing the classification program.
 - b. To determine whether classification practices and performance conform to DOE policy.
 - c. To evaluate the effectiveness of locally developed methods of implementing DOE classification policy and regulations.
 - d. To evaluate the adequacy of the classification guidance and control provided by DOE and DOE contractor organizations to those within their supervision.
3. STANDARDS AND PROCEDURES.
 - a. Scope of Appraisals. The classification programs of the various DOE and DOE contractor organizations differ in complexity, extent, and kinds of problems which arise. No one list of points to be covered in an appraisal can therefore be appropriate in all cases. The list of areas below is presented merely as a guideline; it should serve to introduce a measure of uniformity into appraisal reports and to remind the appraisers of areas that may need attention. An appraisal should provide answers to those of the following questions that are applicable.
 - (1) Identification. Who made the appraisal, what sites were visited, and with whom did the appraiser meet?
 - (2) Management Awareness. How actively does the management keep informed of current DOE classification policy, especially as it applies to information, projects, and materials within the local jurisdiction?
 - (3) Management Support. What is the position of the classification function and the Classification Officer in the organization? Are sufficient resources available to the Classification Officer? If the Classification Officer has additional duties, do the Classification Officer and any assistants devote sufficient time to classification matters?

- (4) Practices. How closely do classification practices comport with DOE policy? (The answer should be based on a review of representative samplings of classified and unclassified correspondence, records, procurement forms, financial reports, etc.)
 - (5) Classification Guidance. How complete, effective, and timely is the guidance developed for classified projects? (Appraisal of a prime contractor organization should include review of the classification guidance it furnishes to subcontractor organizations and of the classification practices of the latter.) Have local classification guides been prepared for all classified work being performed? Are they kept current?
 - (6) Education Program. How active and effective is the educational program for indoctrination and instruction of all individuals in classification policies and procedures?
 - (7) Classification Board. Has a board been appointed; if so, who is on the board and is it effective?
 - (8) Classifying and Declassifying Officials. How current and appropriate is the appointment of Authorized Classifiers and Authorized Declassifiers?
 - (9) Declassification. Is there a declassification program, and is it effective? To what extent has the declassification authority been redelegated?
 - (10) Appraisals. How thoroughly is the appraisal system conducted in determining compliance with approved guidance? Are subcontractor appraisals being conducted?
- b. Frequency of Appraisal. The scope and frequency of appraisals shall be determined by the management of the appraising organization after consideration of the following factors:
- (1) Past Performance Experience and Appraisal Results. Problem areas and key functions representing potential trouble spots should be identified for frequent review.
 - (2) Interval Since Last Appraisal. Every function having a major classification interest should be appraised at least once every 3 years unless particular circumstances indicate otherwise. Functions having a minor classification interest may be appraised on a 5-year or longer basis.
 - (3) Management's need for information.

- (4) Number of classified contracts administered by a DOE organization.

c. Visits.

- (1) In certain cases, adequate evaluation of classification performance can be based on knowledge obtained other than by an actual visit. However, a desk-made classification appraisal of an organization may leave many factors out of account because it must be based on performance as revealed by matters raised by the organization itself or incidentally exposed. Various units within the organization may be unaware that their classification practices are incorrect or may be reluctant to call attention to them. Therefore, some appraisals of an organization should be based on personal visits, with an inspection of classification practices of the various units and a classification review of both outgoing and internal papers and records.
- (2) When classification performance can be evaluated from knowledge obtained other than by an actual visit, records of the evaluation of classification performance based on the following items shall be kept current:
 - (a) A review of routine and special reports;
 - (b) Conferences with key personnel;
 - (c) Day-to-day contacts; and
 - (d) Results of inquiry into unusual or problem situations.
- (3) Such records may supplement or be used in place of formal appraisal reports.

d. Appraisal Reports.

- (1) A written appraisal report is required. It should include sufficient evaluation of the phases of the classification program listed in subparagraph 3a, or equivalent treatment at the discretion of the appraiser, to give a clear picture of classification performance.
- (2) The report should inform both the organization appraised and the organization responsible for the appraisal, of the adequacy of the classification program, and reveal any problem areas and necessary corrective actions.

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- (3) In treating a phase of the classification program for which the appraiser has suggested a revised procedure or has pointed out the necessity for an action, note should be made of the recommendation and the person or persons to whom it was made. If a substantial number of such recommendations appear in the report, they should be summarized for ready reference.
 - (4) Generally, no final report should be made without first informing the responsible management of the appraised organization of the appraisal results and the probable content of the report. When such action is considered inappropriate, the problem shall be discussed personally with the head of the organization concerned.
 - (5) The appraisal report on a DOE organization shall be submitted to the head of that organization. A copy shall be forwarded to DP-1 and, when appropriate, to other Secretarial Officers. A copy of the appraisal report of a field organization also shall be forwarded to the HQ organization that has primary interest in its operations.
 - (6) The appraisal report on an area office or contractor organization by the field organization administering the contract shall be filed in that field organization and a copy provided on request to the Director of Classification.
 - (7) The appraisal report on a contractor organization by a HQ organization administering the contract shall be filed in that organization and a copy provided to the Director of Classification. When, in accordance with established procedures, a field organization or the Office of Classification appraises a HQ-administered contract, the appraisal report shall be forwarded to the appropriate HQ organization.
 - (8) The appraisal report on a subcontractor organization by the contractor organization administering the contract shall be on file at the contractor organization and a copy provided to the DOE organization administering the prime contract.
- e. Followup. Where recommendations for action have been submitted to responsible management, the adequacy of their implementation shall normally be determined and reported in the next appraisal. However, if a need for corrective measures has been established, a followup, at least by correspondence, shall be instituted by the appraising organization soon enough to assure compliance.

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ATTACHMENT 2

Title 3—The President

Executive Order 12065

June 28, 1978

National Security Information

By the authority vested in me as President by the Constitution and laws of the United States of America, in order to balance the public's interest in access to Government information with the need to protect certain national security information from disclosure, it is hereby ordered as follows:

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THE PRESIDENT

SECTION I. ORIGINAL CLASSIFICATION.

1-1. Classification Designation.

1-101. Except as provided in the Atomic Energy Act of 1954, as amended, this Order provides the only basis for classifying information. Information may be classified in one of the three designations listed below. If there is reasonable doubt which designation is appropriate, or whether the information should be classified at all, the less restrictive designation should be used, or the information should not be classified.

1-102. "Top Secret" shall be applied only to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security.

1-103. "Secret" shall be applied only to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security.

1-104. "Confidential" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause identifiable damage to the national security.

1-2. Classification Authority.

1-201. *Top Secret.* Authority for original classification of information as Top Secret may be exercised only by the President, by such officials as the President may designate by publication in the FEDERAL REGISTER, by the agency heads listed below, and by officials to whom such authority is delegated in accordance with Section 1-204:

- The Secretary of State
- The Secretary of the Treasury
- The Secretary of Defense
- The Secretary of the Army
- The Secretary of the Navy
- The Secretary of the Air Force
- The Attorney General
- The Secretary of Energy
- The Chairman, Nuclear Regulatory Commission
- The Director, Arms Control and Disarmament Agency
- The Director of Central Intelligence
- The Administrator, National Aeronautics and Space Administration
- The Administrator of General Services (delegable only to the Director, Federal Preparedness Agency and to the Director, Information Security Oversight Office)

1-202. *Secret.* Authority for original classification of information as Secret may be exercised only by such officials as the President may designate by publication in the FEDERAL REGISTER, by the agency heads listed below, by officials who have Top Secret classification authority, and by officials to whom such authority is delegated in accordance with Section 1-204:

- The Secretary of Commerce
- The Secretary of Transportation
- The Administrator, Agency for International Development
- The Director, International Communication Agency

1-203. *Confidential.* Authority for original classification of information as Confidential may be exercised only by such officials as the President may designate by publication in the FEDERAL REGISTER, by the agency heads listed below, by officials who have Top Secret or Secret classification authority, and by officials to whom such authority is delegated in accordance with Section 1-204:

THE PRESIDENT

The President and Chairman, Export-Import Bank of the United States
The President and Chief Executive Officer, Overseas Private Investment Corporation

1-204. Limitations on Delegation of Classification Authority.

(a) Authority for original classification of information as Top Secret may be delegated only to principal subordinate officials who have a frequent need to exercise such authority as determined by the President or by agency heads listed in Section 1-201.

(b) Authority for original classification of information as Secret may be delegated only to subordinate officials who have a frequent need to exercise such authority as determined by the President, by agency heads listed in Sections 1-201 and 1-202, and by officials with Top Secret classification authority.

(c) Authority for original classification of information as Confidential may be delegated only to subordinate officials who have a frequent need to exercise such authority as determined by the President, by agency heads listed in Sections 1-201, 1-202, and 1-203, and by officials with Top Secret classification authority.

(d) Delegated original classification authority may not be redelegated.

(e) Each delegation of original classification authority shall be in writing by name or title of position held.

(f) Delegations of original classification authority shall be held to an absolute minimum. Periodic reviews of such delegations shall be made to ensure that the officials so designated have demonstrated a continuing need to exercise such authority.

1-205. Exceptional Cases. When an employee or contractor of an agency that does not have original classification authority originates information believed to require classification, the information shall be protected in the manner prescribed by this Order and implementing directives. The information shall be transmitted promptly under appropriate safeguards to the agency which has appropriate subject matter interest and classification authority. That agency shall decide within 30 days whether to classify that information. If it is not clear which agency should get the information, it shall be sent to the Director of the Information Security Oversight Office established in Section 5-2 for a determination.

1-3. Classification Requirements.

1-301. Information may not be considered for classification unless it concerns:

- (a) military plans, weapons, or operations;
- (b) foreign government information;
- (c) intelligence activities, sources or methods;
- (d) foreign relations or foreign activities of the United States;
- (e) scientific, technological, or economic matters relating to the national security;

(f) United States Government programs for safeguarding nuclear materials or facilities; or

(g) other categories of information which are related to national security and which require protection against unauthorized disclosure as determined by the President, by a person designated by the President pursuant to Section 1-201, or by an agency head.

1-302. Even though information is determined to concern one or more of the criteria in Section 1-301, it may not be classified unless an original classification authority also determines that its unauthorized disclosure reasonably could be expected to cause at least identifiable damage to the national security.

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1-303. Unauthorized disclosure of foreign government information or the identity of a confidential foreign source is presumed to cause at least identifiable damage to the national security.

1-304. Each determination under the criterion of Section 1-301(g) shall be reported promptly to the Director of the Information Security Oversight Office.

1-4. *Duration of Classification.*

1-401. Except as permitted in Section 1-402, at the time of the original classification each original classification authority shall set a date or event for automatic declassification no more than six years later.

1-402. Only officials with Top Secret classification authority and agency heads listed in Section 1-2 may classify information for more than six years from the date of the original classification. This authority shall be used sparingly. In such cases, a declassification date or event, or a date for review, shall be set. This date or event shall be as early as national security permits and shall be no more than twenty years after original classification, except that for foreign government information the date or event may be up to thirty years after original classification.

1-5. *Identification and Markings.*

1-501. At the time of original classification, the following shall be shown on the face of paper copies of all classified documents:

- (a) the identity of the original classification authority;
- (b) the office of origin;
- (c) the date or event for declassification or review; and
- (d) one of the three classification designations defined in Section 1-1.

1-502. Documents classified for more than six years shall also be marked with the identity of the official who authorized the prolonged classification. Such documents shall be annotated with the reason the classification is expected to remain necessary, under the requirements of Section 1-3, despite the passage of time. The reason for the prolonged classification may be stated by reference to criteria set forth in agency implementing regulations. These criteria shall explain in narrative form the reason the information needs to be protected beyond six years. If the individual who signs or otherwise authenticates a document also is authorized to classify it, no further annotation of identity is required.

1-503. Only the designations prescribed by this Order may be used to identify classified information. Markings such as "For Official Use Only" and "Limited Official Use" may not be used for that purpose. Terms such as "Conference" or "Agency" may not be used in conjunction with the classification designations prescribed by this Order; e.g., "Agency Confidential" or "Conference Confidential."

1-504. In order to facilitate excerpting and other uses, each classified document shall, by marking or other means, indicate clearly which portions are classified, with the applicable classification designation, and which portions are not classified. The Director of the Information Security Oversight Office may, for good cause, grant and revoke waivers of this requirement for specified classes of documents or information.

1-505. Foreign government information shall either retain its original classification designation or be assigned a United States classification designation that shall ensure a degree of protection equivalent to that required by the entity that furnished the information.

1-506. Classified documents that contain or reveal information that is subject to special dissemination and reproduction limitations authorized by

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this Order shall be marked clearly so as to place the user on notice of the restrictions.

1-6. Prohibitions.

1-601. Classification may not be used to conceal violations of law, inefficiency, or administrative error, to prevent embarrassment to a person, organization or agency, or to restrain competition.

1-602. Basic scientific research information not clearly related to the national security may not be classified.

1-603. A product of non-government research and development that does not incorporate or reveal classified information to which the producer or developer was given prior access may not be classified under this Order until and unless the government acquires a proprietary interest in the product. This Order does not affect the provisions of the Patent Secrecy Act of 1952 (35 U.S.C. 181-188).

1-604. References to classified documents that do not disclose classified information may not be classified or used as a basis for classification.

1-605. Classification may not be used to limit dissemination of information that is not classifiable under the provisions of this Order or to prevent or delay the public release of such information.

1-606. No document originated on or after the effective date of this Order may be classified after an agency has received a request for the document under the Freedom of Information Act or the Mandatory Review provisions of this Order (Section 3-5), unless such classification is consistent with this Order and is authorized by the agency head or deputy agency head. Documents originated before the effective date of this Order and subject to such a request may not be classified unless such classification is consistent with this Order and is authorized by the senior official designated to oversee the agency information security program or by an official with Top Secret classification authority. Classification authority under this provision shall be exercised personally, on a document-by-document basis.

1-607. Classification may not be restored to documents already declassified and released to the public under this Order or prior Orders.

SECTION 2. DERIVATIVE CLASSIFICATION.

2-1. Use of Derivative Classification.

2-101. Original classification authority shall not be delegated to persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide.

2-102. Persons who apply such derivative classification markings shall:

- (a) respect original classification decisions;
- (b) verify the information's current level of classification so far as practicable before applying the markings; and
- (c) carry forward to any newly created documents the assigned dates or events for declassification or review and any additional authorized markings, in accordance with Sections 2-2 and 2-301 below. A single marking may be used for documents based on multiple sources.

2-2. Classification Guides.

2-201. Classification guides used to direct derivative classification shall specifically identify the information to be classified. Each classification guide shall specifically indicate how the designations, time limits, markings, and other requirements of this Order are to be applied to the information.

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2-202. Each such guide shall be approved personally and in writing by an agency head listed in Section 1-2 or by an official with Top Secret classification authority. Such approval constitutes an original classification decision.

2-3. *New Material.*

2-301. New material that derives its classification from information classified on or after the effective date of this Order shall be marked with the declassification date or event, or the date for review, assigned to the source information.

2-302. New material that derives its classification from information classified under prior Orders shall be treated as follows:

(a) If the source material bears a declassification date or event twenty years or less from the date of origin, that date or event shall be carried forward on the new material.

(b) If the source material bears no declassification date or event or is marked for declassification beyond twenty years, the new material shall be marked with a date for review for declassification at twenty years from the date of original classification of the source material.

(c) If the source material is foreign government information bearing no date or event for declassification or is marked for declassification beyond thirty years, the new material shall be marked for review for declassification at thirty years from the date of original classification of the source material.

SECTION 3. DECLASSIFICATION AND DOWNGRADING.

3-1. *Declassification Authority.*

3-101. The authority to declassify or downgrade information classified under this or prior Orders shall be exercised only as specified in Section 3-1.

3-102. Classified information may be declassified or downgraded by the official who authorized the original classification if that official is still serving in the same position, by a successor, or by a supervisory official of either.

3-103. Agency heads named in Section 1-2 shall designate additional officials at the lowest practicable echelons to exercise declassification and downgrading authority.

3-104. If the Director of the Information Security Oversight Office determines that information is classified in violation of this Order, the Director may require the information to be declassified by the agency that originated the classification. Any such decision by the Director may be appealed to the National Security Council. The information shall remain classified until the appeal is decided or until one year from the date of the Director's decision, whichever occurs first.

3-105. The provisions of this Order relating to declassification shall also apply to agencies which, under the terms of this Order, do not have original classification authority but which had such authority under prior Orders.

3-2. *Transferred Information.*

3-201. For classified information transferred in conjunction with a transfer of functions—not merely for storage purposes—the receiving agency shall be deemed to be the originating agency for all purposes under this Order.

3-202. For classified information not transferred in accordance with Section 3-201, but originated in an agency which has ceased to exist, each agency in possession shall be deemed to be the originating agency for all purposes under this Order. Such information may be declassified or downgraded by the agency in possession after consulting with any other agency having an interest in the subject matter.

3-203. Classified information transferred to the General Services Administration for accession into the Archives of the United States shall be declassified.

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fied or downgraded by the Archivist of the United States in accordance with this Order, the directives of the Information Security Oversight Office, and the agency guidelines.

3-204. After the termination of a Presidential administration, the Archivist of the United States shall review and declassify or downgrade all information classified by the President, the White House Staff, committees or commissions appointed by the President, or others acting on the President's behalf. Such declassification shall only be undertaken in accordance with the provisions of Section 3-504.

3-3. *Declassification Policy.*

3-301. Declassification of classified information shall be given emphasis comparable to that accorded classification. Information classified pursuant to this and prior Orders shall be declassified as early as national security considerations permit. Decisions concerning declassification shall be based on the loss of the information's sensitivity with the passage of time or on the occurrence of a declassification event.

3-302. When information is reviewed for declassification pursuant to this Order or the Freedom of Information Act, it shall be declassified unless the declassification authority established pursuant to Section 3-1 determines that the information continues to meet the classification requirements prescribed in Section 1-3 despite the passage of time.

3-303. It is presumed that information which continues to meet the classification requirements in Section 1-3 requires continued protection. In some cases, however, the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. When such questions arise, they shall be referred to the agency head, a senior agency official with responsibility for processing Freedom of Information Act requests or Mandatory Review requests under this Order, an official with Top Secret classification authority, or the Archivist of the United States in the case of material covered in Section 3-503. That official will determine whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure.

3-4. *Systematic Review for Declassification.*

3-401. Classified information constituting permanently valuable records of the Government, as defined by 44 U.S.C. 2103, and information in the possession and control of the Administrator of General Services, pursuant to 44 U.S.C. 2107 or 2107 note, shall be reviewed for declassification as it becomes twenty years old. Agency heads listed in Section 1-2 and officials designated by the President pursuant to Section 1-201 of this Order may extend classification beyond twenty years, but only in accordance with Sections 3-3 and 3-402. This authority may not be delegated. When classification is extended beyond twenty years, a date no more than ten years later shall be set for declassification or for the next review. That date shall be marked on the document. Subsequent reviews for declassification shall be set at no more than ten year intervals. The Director of the Information Security Oversight Office may extend the period between subsequent reviews for specific categories of documents or information.

3-402. Within 180 days after the effective date of this Order, the agency heads listed in Section 1-2 and the heads of agencies which had original classification authority under prior orders shall, after consultation with the Archivist of the United States and review by the Information Security Oversight Office, issue and maintain guidelines for systematic review covering twenty-year old classified information under their jurisdiction. These guide-

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lines shall state specific, limited categories of information which, because of their national security sensitivity, should not be declassified automatically but should be reviewed item-by-item to determine whether continued protection beyond twenty years is needed. These guidelines shall be authorized for use by the Archivist of the United States and may, upon approval of the issuing authority, be used by any agency having custody of the information. All information not identified in these guidelines as requiring review and for which a prior automatic declassification date has not been established shall be declassified automatically at the end of twenty years from the date of original classification.

3-403. Notwithstanding Sections 3-401 and 3-402, the Secretary of Defense may establish special procedures for systematic review and declassification of classified cryptologic information, and the Director of Central Intelligence may establish special procedures for systematic review and declassification of classified information concerning the identities of clandestine human agents. These procedures shall be consistent, so far as practicable, with the objectives of Sections 3-401 and 3-402. Prior to implementation, they shall be reviewed and approved by the Director of the Information Security Oversight Office and, with respect to matters pertaining to intelligence sources and methods, by the Director of Central Intelligence. Disapproval of procedures by the Director of the Information Security Oversight Office may be appealed to the National Security Council. In such cases, the procedures shall not be implemented until the appeal is decided.

3-404. Foreign government information shall be exempt from automatic declassification and twenty year systematic review. Unless declassified earlier, such information shall be reviewed for declassification thirty years from its date of origin. Such review shall be in accordance with the provisions of Section 3-3 and with guidelines developed by agency heads in consultation with the Archivist of the United States and, where appropriate, with the foreign government or international organization concerned. These guidelines shall be authorized for use by the Archivist of the United States and may, upon approval of the issuing authority, be used by any agency having custody of the information.

3-405. Transition to systematic review at twenty years shall be implemented as rapidly as practicable and shall be completed no more than ten years from the effective date of this Order.

3-5. Mandatory Review for Declassification.

3-501. Agencies shall establish a mandatory review procedure to handle requests by a member of the public, by a government employee, or by an agency, to declassify and release information. This procedure shall apply to information classified under this Order or prior Orders. Except as provided in Section 3-503, upon such a request the information shall be reviewed for possible declassification, provided the request reasonably describes the information. Requests for declassification under this provision shall be acted upon within 60 days. After review, the information or any reasonably segregable portion thereof that no longer requires protection under this Order shall be declassified and released unless withholding is otherwise warranted under applicable law.

3-502. Requests for declassification which are submitted under the provisions of the Freedom of Information Act shall be processed in accordance with the provisions of that Act.

3-503. Information less than ten years old which was originated by the President, by the White House Staff, or by committees or commissions appointed by the President, or by others acting on behalf of the President, including such information in the possession and control of the Administrator

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of General Services pursuant to 44 U.S.C. 2107 or 2107 note, is exempted from the provisions of Section 3-501. Such information over ten years old shall be subject to mandatory review for declassification. Requests for mandatory review shall be processed in accordance with procedures developed by the Archivist of the United States. These procedures shall provide for consultation with agencies having primary subject matter interest. Any decision by the Archivist may be appealed to the Director of the Information Security Oversight Office. Agencies with primary subject matter interest shall be notified promptly of the Director's decision on such appeals and may further appeal to the National Security Council through the process set forth in Section 3-104.

3-504. Requests for declassification of classified documents originated by an agency but in the possession and control of the Administrator of General Services, pursuant to 44 U.S.C. 2107 or 2107 note, shall be referred by the Archivist to the agency of origin for processing in accordance with Section 3-501 and for direct response to the requestor. The Archivist shall inform requestors of such referrals.

3-505. No agency in possession of a classified document may, in response to a request for the document made under the Freedom of Information Act or this Order's Mandatory Review provision, refuse to confirm the existence or non-existence of the document, unless the fact of its existence or non-existence would itself be classifiable under this Order.

3-6. *Downgrading.*

3-601. Classified information that is marked for automatic downgrading is downgraded accordingly without notification to holders.

3-602. Classified information that is not marked for automatic downgrading may be assigned a lower classification designation by the originator or by other authorized officials when such downgrading is appropriate. Notice of downgrading shall be provided to holders of the information to the extent practicable.

SECTION 4. SAFEGUARDING.

4-1. *General Restrictions on Access.*

4-101. No person may be given access to classified information unless that person has been determined to be trustworthy and unless access is necessary for the performance of official duties.

4-102. All classified information shall be marked conspicuously to put users on notice of its current classification status and, if appropriate, to show any special distribution or reproduction restrictions authorized by this Order.

4-103. Controls shall be established by each agency to ensure that classified information is used, processed, stored, reproduced, and transmitted only under conditions that will provide adequate protection and prevent access by unauthorized persons.

4-104. Classified information no longer needed in current working files or for reference or record purposes shall be processed for appropriate disposition in accordance with the provisions of Chapters 21 and 33 of Title 44 of the United States Code, which governs disposition of Federal records.

4-105. Classified information disseminated outside the Executive branch shall be given protection equivalent to that afforded within the Executive branch.

4-2. *Special Access Programs.*

4-201. Agency heads listed in Section 1-201 may create special access programs to control access, distribution, and protection of particularly sensitive information classified pursuant to this Order or prior Orders. Such pro-

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grams may be created or continued only by written direction and only by those agency heads and, for matters pertaining to intelligence sources and methods, by the Director of Central Intelligence. Classified information in such programs shall be declassified according to the provisions of Section 3.

4-202. Special access programs may be created or continued only on a specific showing that:

(a) normal management and safeguarding procedures are not sufficient to limit need-to-know or access;

(b) the number of persons who will need access will be reasonably small and commensurate with the objective of providing extra protection for the information involved; and

(c) the special access controls balance the need to protect the information against the full spectrum of needs to use the information.

4-203. All special access programs shall be reviewed regularly and, except those required by treaty or international agreement, shall terminate automatically every five years unless renewed in accordance with the procedures in Section 4-2.

4-204. Within 180 days after the effective date of this Order, agency heads shall review all existing special access programs under their jurisdiction and continue them only in accordance with the procedures in Section 4-2. Each of those agency heads shall also establish and maintain a system of accounting for special access programs. The Director of the Information Security Oversight Office shall have non-delegable access to all such accountings.

4-3. Access by Historical Researchers and Former Presidential Appointees.

4-301. The requirement in Section 4-101 that access to classified information may be granted only as is necessary for the performance of official duties may be waived as provided in Section 4-302 for persons who:

(a) are engaged in historical research projects, or

(b) previously have occupied policy-making positions to which they were appointed by the President.

4-302. Waivers under Section 4-301 may be granted only if the agency with jurisdiction over the information:

(a) makes a written determination that access is consistent with the interests of national security;

(b) takes appropriate steps to ensure that access is limited to specific categories of information over which that agency has classification jurisdiction;

(c) limits the access granted to former Presidential appointees to items that the person originated, reviewed, signed or received while serving as a Presidential appointee.

4-4. Reproduction Controls.

4-401. Top Secret documents may not be reproduced without the consent of the originating agency unless otherwise marked by the originating office.

4-402. Reproduction of Secret and Confidential documents may be restricted by the originating agency.

4-403. Reproduced copies of classified documents are subject to the same accountability and controls as the original documents.

4-404. Records shall be maintained by all agencies that reproduce paper copies of classified documents to show the number and distribution of reproduced copies of all Top Secret documents, of all documents covered by special access programs distributed outside the originating agency, and of all Secret and all Confidential documents which are marked with special dissemination and reproduction limitations in accordance with Section 1-506.

4-405. Sections 4-401 and 4-402 shall not restrict the reproduction of documents for the purpose of facilitating review for declassification. However,

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such reproduced documents that remain classified after review must be destroyed after they are used.

SECTION 5. IMPLEMENTATION AND REVIEW.

5-1. Oversight.

5-101. The National Security Council may review all matters with respect to the implementation of this Order and shall provide overall policy direction for the information security program.

5-102. The Administrator of General Services shall be responsible for implementing and monitoring the program established pursuant to this Order. This responsibility shall be delegated to an Information Security Oversight Office.

5-2. Information Security Oversight Office.

5-201. The Information Security Oversight Office shall have a full-time Director appointed by the Administrator of General Services subject to approval by the President. The Administrator also shall have authority to appoint a staff for the Office.

5-202. The Director shall:

(a) oversee agency actions to ensure compliance with this Order and implementing directives;

(b) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the information security program, including appeals from decisions on declassification requests pursuant to Section 3-503;

(c) exercise the authority to declassify information provided by Sections 3-104 and 3-503;

(d) develop, in consultation with the agencies, and promulgate, subject to the approval of the National Security Council, directives for the implementation of this Order which shall be binding on the agencies;

(e) report annually to the President through the Administrator of General Services and the National Security Council on the implementation of this Order;

(f) review all agency implementing regulations and agency guidelines for systematic declassification review. The Director shall require any regulation or guideline to be changed if it is not consistent with this Order or implementing directives. Any such decision by the Director may be appealed to the National Security Council. The agency regulation or guideline shall remain in effect until the appeal is decided or until one year from the date of the Director's decision, whichever occurs first.

(g) exercise case-by-case classification authority in accordance with Section 1-205 and review requests for original classification authority from agencies or officials not granted original classification authority under Section 1-2 of this Order; and

(h) have the authority to conduct on-site reviews of the information security program of each agency that handles classified information and to require of each agency such reports, information, and other cooperation as necessary to fulfill his responsibilities. If such reports, inspection, or access to specific categories of classified information would pose an exceptional national security risk, the affected agency head may deny access. The Director may appeal denials to the National Security Council. The denial of access shall remain in effect until the appeal is decided or until one year from the date of the denial, whichever occurs first.

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5-3. *Interagency Information Security Committee.*

5-301. There is established an Interagency Information Security Committee which shall be chaired by the Director and shall be comprised of representatives of the Secretaries of State, Defense, Treasury, and Energy, the Attorney General, the Director of Central Intelligence, the National Security Council, the Domestic Policy Staff, and the Archivist of the United States.

5-302. Representatives of other agencies may be invited to meet with the Committee on matters of particular interest to those agencies.

5-303. The Committee shall meet at the call of the Chairman or at the request of a member agency and shall advise the Chairman on implementation of this order.

5-4. *General Responsibilities.*

5-401. A copy of any information security regulation and a copy of any guideline for systematic declassification review which has been adopted pursuant to this Order or implementing directives, shall be submitted to the Information Security Oversight Office. To the extent practicable, such regulations and guidelines should be unclassified.

5-402. Unclassified regulations that establish agency information security policy and unclassified guidelines for systematic declassification review shall be published in the FEDERAL REGISTER.

5-403. Agencies with original classification authority shall promulgate guides for security classification that will facilitate the identification and uniform classification of information requiring protection under the provisions of this Order.

5-404. Agencies which originate or handle classified information shall:

(a) designate a senior agency official to conduct an active oversight program to ensure effective implementation of this Order;

(b) designate a senior agency official to chair an agency committee with authority to act on all suggestions and complaints with respect to the agency's administration of the information security program;

(c) establish a process to decide appeals from denials of declassification requests submitted pursuant to Section 3-5;

(d) establish a program to familiarize agency and other personnel who have access to classified information with the provisions of this Order and implementing directives. This program shall impress upon agency personnel their responsibility to exercise vigilance in complying with this Order. The program shall encourage agency personnel to challenge, through Mandatory Review and other appropriate procedures, those classification decisions they believe to be improper;

(e) promulgate guidelines for systematic review in accordance with Section 3-402;

(f) establish procedures to prevent unnecessary access to classified information, including procedures which require that a demonstrable need for access to classified information is established before initiating administrative clearance procedures, and which ensures that the number of people granted access to classified information is reduced to and maintained at the minimum number that is consistent with operational requirements and needs; and

(g) ensure that practices for safeguarding information are systematically reviewed and that those which are duplicative or unnecessary are eliminated.

5-405. Agencies shall submit to the Information Security Oversight Office such information or reports as the Director of the Office may find necessary to carry out the Office's responsibilities.

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5-5. *Administrative Sanctions.*

5-501. If the Information Security Oversight Office finds that a violation of this Order or any implementing directives may have occurred, it shall make a report to the head of the agency concerned so that corrective steps may be taken.

5-502. Officers and employees of the United States Government shall be subject to appropriate administrative sanctions if they:

(a) knowingly and willfully classify or continue the classification of information in violation of this Order or any implementing directives; or

(b) knowingly, willfully and without authorization disclose information properly classified under this Order or prior Orders or compromise properly classified information through negligence; or

(c) knowingly and willfully violate any other provision of this Order or implementing directive.

5-503. Sanctions may include reprimand, suspension without pay, removal, termination of classification authority, or other sanction in accordance with applicable law and agency regulations.

5-504. Agency heads shall ensure that appropriate and prompt corrective action is taken whenever a violation under Section 5-502 occurs. The Director of the Information Security Oversight Office shall be informed when such violations occur.

5-505. Agency heads shall report to the Attorney General evidence reflected in classified information of possible violations of Federal criminal law by an agency employee and of possible violations by any other person of those Federal criminal laws specified in guidelines adopted by the Attorney General.

SECTION 6. GENERAL PROVISIONS.

6-1. *Definitions.*

6-101. "Agency" has the meaning defined in 5 U.S.C. 552(e).

6-102. "Classified information" means information or material, herein collectively termed information, that is owned by, produced for or by, or under the control of, the United States Government, and that has been determined pursuant to this Order or prior Orders to require protection against unauthorized disclosure, and that is so designated.

6-103. "Foreign government information" means information that has been provided to the United States in confidence by, or produced by the United States pursuant to a written joint arrangement requiring confidentiality with, a foreign government or international organization of governments.

6-104. "National security" means the national defense and foreign relations of the United States.

6-105. "Declassification event" means an event which would eliminate the need for continued classification.

6-2. *General.*

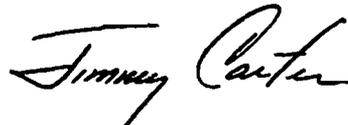
6-201. Nothing in this Order shall supersede any requirement made by or under the Atomic Energy Act of 1954, as amended. "Restricted Data" and information designated as "Formerly Restricted Data" shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto.

6-202. The Attorney General, upon request by the head of an agency, his duly designated representative, or the Director of the Information Security Oversight Office, shall personally or through authorized representatives of the Department of Justice render an interpretation of this Order with respect to any question arising in the course of its administration.

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6-203. Executive Order No. 11652 of March 8, 1972, as amended by Executive Order No. 11714 of April 24, 1973, and as further amended by Executive Order No. 11862 of June 11, 1975, and the National Security Council Directive of May 17, 1972 (3 CFR 1085 (1971-75 Comp.)) are revoked.

6-204. This Order shall become effective on December 1, 1978, except that the functions of the Information Security Oversight Office specified in Sections 5-202(d) and 5-202(f) shall be effective immediately and shall be performed in the interim by the Interagency Classification Review Committee established pursuant to Executive Order No. 11652.



THE WHITE HOUSE,
June 28, 1978.

[FR Doc. 78-18505 Filed 6-29-78; 4:18 pm]

EDITORIAL NOTE: The President's statement of June 29, 1978, on issuing Executive Order 12065, is printed in the Weekly Compilation of Presidential Documents (vol. 14, No. 26).

ATTACHMENT 3

RULES AND REGULATIONS

Title 32—National Defense
CHAPTER XX—INTERAGENCY CLASSIFICATION REVIEW COMMITTEE
(Directive No. 1)
INFORMATION SECURITY OVERSIGHT OFFICE

National Security Information

AGENCY: Interagency Classification Review Committee (ICRC).

ACTION: Implementing directive.

SUMMARY: The Interagency Classification Review Committee is publishing this directive to implement Executive Order 12065, relating to the classification, downgrading, declassification and safeguarding of national security information. This directive was approved by the National Security Council for publication and issuance on September 29, 1978. The Executive order is intended to increase openness in Government by limiting classification and accelerating declassification but at the same time, providing improved protection against unauthorized disclosure for that information that requires such protection in the interest of national security. This directive sets forth guidelines to agencies on original and derivative classification, downgrading, declassification and safeguarding of national security information.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert W. Wells, Executive Director, ICRC, Telephone: 202-724-1578.

SUPPLEMENTARY INFORMATION: This directive is issued pursuant to the provisions of section 6-204 of Executive Order 12065. The purpose of the directive is to assist in the implementation of Executive Order 12065, and users of the directive shall refer concurrently to the Executive order for guidance.

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C Downgrading, Declassification, and Upgrading Markings.

D Combat Operations.

E Publication and Effective Date.

I. ORIGINAL CLASSIFICATION

A. *Definition.* "Original classification" as used in the order means an initial determination that information requires protection against unauthorized disclosure in the interest of national security, and a designation of the level of classification (1).¹

B. *Classification authority.* In the absence of an authorized classifier, anyone designated to act in that person's absence may exercise the classifier's authority (1-204).

C. *Request for classification authority.* Requests for original classification authority for agencies not listed in section 1-2 of the order shall be submitted to the President through the Information Security Oversight Office. Requests shall include: (1) The designation of the officials for whom or positions for which authority is sought, (2) the level of authority requested, and (3) the justification for such requests, including a description of the type of information that is anticipated to require original classification (1-2).

D. *Record requirements.* Agencies and officials granted original classification authority pursuant to section 1-2 of the order shall maintain a current listing, by classification designation, of individuals to whom or positions to which original classification authority has been delegated (1-2).

E. *Classification procedure.* Except as provided in section 1-303 of the order, the fact that the information concerns one or more of the qualifying criteria or categories of information

¹ Parenthetical references are to related sections of Executive Order 12065.

shall not create any presumption as to whether the information meets the damage tests (1-302 and 1-303).

F. *Foreign government information.—1. Identification.* "Foreign government information" is:

a. Information provided to the United States by a foreign government or international organization of governments in the expectation, express or implied, that the information is to be kept in confidence; or

b. Information produced by the United States pursuant to a written joint arrangement with a foreign government or international organization of governments requiring that either the information or the arrangement, or both, be kept in confidence. Such a written joint arrangement may be evidenced by an exchange of letters, a memorandum of understanding, or other written record (1-303 and 6-103).

2. *Duration of classification.* Unless the guidelines developed pursuant to section 3-404 of the order or other guidelines prescribe dates or events for declassification or for review for declassification:

a. Foreign government information shall not be assigned a date or event for automatic declassification unless such is specified or agreed to by the foreign government or international organization of governments.

b. Foreign government information classified after the effective date of the order shall be assigned a date for review for declassification up to 30 years from the time the information was classified or acquired. (1-402 and 3-404).

G. *Standard identification and markings.* At the time of original classification, the following shall be shown on the face of paper copies of all classified documents:

1. *Identity of classifier.* The identity of the classifier, unless also the signer or approver of the document, shall be shown on a "classified by" line; e.g., "Classified by John Doe" or "Classified by Director, XXX" (1-501(a)).

2. *Date of classification and office of origin.* The date and office of origin on a document at the time of its origin may be considered the date of classification and identification of the office of origin (1-501(b)).

3. *Date or event for declassification or review.* The date for automatic declassification or for declassification review shall be shown on a "declassify on" or a "review for declassification on" line; e.g., "Declassify on 1 November 1984," "Declassify on completion of State visit," or "Review for declassification on 1 November 1998" (1-501(c)).

4. *Downgrading markings.* When it is determined (e.g., in a classification guide) that a classified document should be downgraded automatically

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at a certain date or upon a certain event, that date or event shall be recorded on the face of the document; e.g., "Downgraded to Secret on 1 November 1990" or "Downgraded to Confidential on 1 December 1985" (1-5).

5. *Identity of extension authority.* The identity of the official who authorizes a date for declassification or for review for declassification that is more than 6 years beyond the date of the document's classification shall be shown on the document, unless that official also is the classifier, signer, or approver of the document. This marking shall be shown substantially as follows: "Extended by (Insert name or title of position of agency head or Top Secret classification authority)" (1-502).

6. *Reason for extension.* When classification is extended beyond 6 years, the reason shall be stated on the document either in narrative form or by reference to an agency regulation that states the reason for extension in narrative form. The reason shall be shown substantially as follows: "Reason for extension: (State reason or applicable reference)" (1-502).

7. *Overall and page marking of documents.* The overall classification of a document shall be marked, stamped, or affixed permanently at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, and on the outside of the back cover (if any). Each interior page of a classified document shall be marked or stamped at the top and bottom either according to the highest classification of the content of the page, including the designation "Unclassified" when appropriate, or according to the highest overall classification of the document. In any case, the classification marking of the page shall not supersede the classification marking of portions of the page marked with lower levels of classification (1-501(d)).

8. *Subject and titles.* Whenever practicable, subjects and titles shall be selected so as not to require classification. When the subject or title is classified, an unclassified identifier may be assigned to facilitate receipting and reference (1-5).

9. *Mandatory portion marking.* Classifiers shall identify the level of classification of each classified portion of a document (including subjects and titles), and those portions that are not classified. Portion marking shall be accomplished by placing a parenthetical designator immediately preceding or following the text that it governs. The symbols "(TS)" for top secret, "(S)" for secret, "(C)" for confidential, and "(U)" for unclassified shall be used for this purpose. If individual portion marking is impracticable, the document shall contain a description suffi-

cient to identify the information that is classified and the level of such classification. A waiver of the portion marking requirement may be granted by the Director of the Information Security Oversight Office. Requests for such waivers shall be made by the head of an agency or designee to the Director and shall include: (a) Identification of the information or classes of documents for which such waiver is sought, (b) a detailed explanation of why the waiver should be granted, (c) the agency's best judgment as to the anticipated dissemination of the information or class of documents for which waiver is sought, and (d) the extent to which the information subject to the waiver may form a basis for classification of other documents (1-504).

10. *Material other than documents.* The classification and associated markings prescribed by this directive of documents shall, where practicable, be affixed to material other than documents by stamping, tagging, or other means. If this is not practicable, recipients shall be made aware of the classification and associated markings by notification or other means as prescribed by the agency (1-5).

11. *Transmittal documents.* A transmittal document shall indicate on its face the highest classification of the information transmitted by it and the classification, if any, of the transmittal document. For example, an unclassified transmittal document should bear a notation substantially as follows: "Unclassified When Classified Enclosure Is Detached" (1-5).

12. *Marking foreign government information.* Except in those cases where such markings would reveal intelligence information, foreign government information incorporated in United States documents shall, whenever practicable, be identified in such manner as to ensure that the foreign government information is not declassified prematurely or made accessible to nationals of a third country without consent of the originator. Documents classified by a foreign government or an international organization of governments shall, if the foreign classification is not in English, be marked with the equivalent U.S. classification. Foreign government information not classified by a foreign government or an international organization of governments but provided to the United States in confidence by a foreign government or by an international organization of governments shall be classified at an appropriate level and shall be marked with the U.S. classification accordingly (1-5).

H. *Additional markings required.* In addition to the marking requirements in paragraph G, the following markings shall, as appropriate, be displayed

prominently on classified information. When display of these additional markings is not practicable, their applicability to the information shall be included in the written notification of the assigned classification (1-5).

1. *Restricted data or formerly restricted data.* For classified information containing restricted data or formerly restricted data as defined in the Atomic Energy Act of 1954, as amended, such markings as may be prescribed by the Department of Energy in regulations issued pursuant to the act shall be applied.

2. *Intelligence sources and methods information.* For classified information involving intelligence sources or methods: "Warning Notice—Intelligence Sources and Methods Involved".

3. *Dissemination and reproduction notice.* For classified information that the originator has determined, pursuant to section 1-506 of the order, should be subject to special dissemination or reproduction limitations, or both, a statement placing the user on notice of the restrictions shall be included in the text of the document or on its cover sheet; e.g., "Reproduction requires approval of originator," or "Further dissemination only as directed by (Insert appropriate office or official)" (1-506).

I. *Abbreviations.* Classified documents that are transmitted electrically may be marked with abbreviations or codes in a single line to satisfy the requirements of each subsection of paragraphs G and H in a manner consistent with economic and efficient use of electrical transmission systems, provided that the full text represented by each such abbreviation or code and its relation to each subsection of paragraphs G and H is readily available to each expected user of the classified documents affected.

II. DERIVATIVE CLASSIFICATION

A. *Definition.* "Derivative classification" as used in the order means a determination that information is in substance the same as information that is currently classified, and a designation of the level of classification (2-1).

B. *Responsibility.* Derivative application of classification markings is a responsibility of those who incorporate, paraphrase, restate, or generate in new form information that is already classified, and of those who apply markings in accordance with instructions from an authorized classifier or in accordance with an authorized classification guide. Persons who apply derivative classification markings should take care to determine whether their paraphrasing, restating, or summarizing of classified information has removed the basis for classification. Where checks with originators or other appropriate inquiries show that

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no classification or a lower classification than originally assigned is appropriate, the derivative document shall be issued as unclassified or shall be marked appropriately (2-101 and 2-102).

C. Marking derivatively classified documents. Paper copies of derivatively classified documents shall be marked at the time of origination as follows:

1. The classification authority shall be shown on a "classified by" line; e.g., "Classified by (Insert identity of classification guide)" or "Classified by (Insert source of original classification)." If the classification is derived from more than one source, the single phrase "multiple sources" may be shown, provided that identification of each such source is maintained with the file or record copy of the document (2-102(c));

2. The identity of the office originating the derivatively classified document shall be shown on the face of the document (2-102);

3. Dates or events for declassification or review shall be carried forward from the source material or classification guide and shown on a "declassify on" or "review for declassification on" line. If the classification is derived from more than one source, the latest date for declassification or review applicable to the various source materials shall be applied to the new information (2-102(c));

4. The classification marking provisions of sections I.G. 7 through 9 and I.G. 12 are also applicable to derivatively classified documents (2-102(c));

5. Any additional marking under section I.H. of this directive appearing on the source material shall be carried forward to the new material when appropriate (2-102(c)); and

6. Any abbreviation or code permitted under section I. I. of this directive may be applied to derivatively classified documents.

D. Classification guides.—1. Requirements. Classification guides issued pursuant to section 2-2 of the order shall:

a. Identify the information to be protected, using categorization to the extent necessary to insure that the information involved can be identified readily and uniformly (2-201);

b. State which of the classification designations (i.e., top secret, secret, or confidential) applies to the information (2-201);

c. State the duration of classification in terms of a period of time or future event. When such duration is to exceed 8 years, the reason for such extension shall be provided in the guide. However, if the inclusion of classified reasons would result in a level of classification for a guide that would inhibit its desirable and required dissemination,

those reasons need be recorded only on or with the record copy of the guide (2-201); and

d. Indicate how the designations, time limits, markings, and other requirements of the order and this directive are to be applied, or make specific reference to agency regulations that provide for such application (2-201).

2. Review and record requirements. Each classification guide shall be kept current and shall be reviewed at least once every 2 years. Each agency shall maintain a list of all its classification guides in current use (2-2).

III. DECLASSIFICATION AND DOWNGRADING

A. Record requirements. Agencies and officials granted original classification authority pursuant to section 1-2 of the order shall maintain a record of individuals or positions designated as declassification authorities pursuant to section 3-103 of the order (3-103).

B. Declassification policy. In making determinations under section 3-303 of the order, officials shall respect the intent of the order to protect foreign government information and confidential foreign sources (3-303).

C. Systematic Review for Declassification.—1. Systematic review guidelines.

a. *U.S. originated information.* Systematic review guidelines shall be kept current through review at least every 2 years, unless earlier review for revision is requested by the Archivist of the United States (3-402).

b. *Foreign government information.* Within 1 year after the effective date of the order, heads of affected agencies shall, in consultation with the Archivist and in accordance with the provisions of section 3-404 of the order, develop systematic review guidelines for 30-year-old foreign government information. These guidelines shall be kept current through review by agency heads at least once every 2 years, unless earlier review for revision is requested by the Archivist of the United States. A copy of these guidelines and any revisions thereto shall be furnished to the Information Security Oversight Office. Upon request, the Department of State shall provide advice and such assistance as is necessary to effect foreign government coordination of the guidelines (3-404).

2. Systematic review procedures.—a. Scheduling for systematic review. Classified nonpermanent records that are scheduled to be retained for more than 20 years need not be systematically reviewed but shall be reviewed for declassification upon request. Within 60 days of the effective date of the order, heads of agencies and officials designated by the President pursuant to section 1-2 of the order shall

direct that all classified records 20 years old or older, whether held in storage areas by the agency or in Federal records centers, be surveyed to identify those that require scheduling for future disposition. Such scheduling shall be accomplished within 2 years of the effective date of the order (3-401).

b. *Extending classification after review.—(1) Foreign government information.* Agency heads listed in section 1-2 and officials designated by the President pursuant to section 1-201 of the order may extend the classification of foreign government information beyond 30 years, but only in accordance with sections 3-3 and 3-404. This authority may not be delegated. When classification is extended beyond 30 years, a date no more than 10 years later shall be set for declassification or for the next review. Subsequent reviews for declassification shall be set at no more than 10-year intervals (3-404).

(2) *Waivers of further review.* Heads of agencies listed in section 1-2 and officials designated by the President pursuant to section 1-201 of the order may request from the Director of the Oversight Office a waiver of the 10-year review requirement for both U.S.-originated and foreign government information. Such requests shall include a personal certification by the agency head that the classified information for which the waiver is sought has been systematically reviewed as required, and that a definitive date for declassification could not be determined. Waivers should not be requested unless the results of the review have established an identifiable need to continue classification for a period in excess of 20 additional years. Each request shall include a recommended date or event for subsequent review or automatic declassification (3-401).

c. *Assistance to the Archivist.—(1)* The head of each agency shall designate experienced personnel to assist the Archivist of the United States in the systematic review of 20-year-old U.S.-originated information and 30-year-old foreign government information accessioned into the National Archives of the United States. Such personnel shall:

(a) Provide guidance and assistance to National Archives employees in identifying and separating documents and specific categories of information within documents that are deemed to require continued classification; and

(b) Submit to the head of the agency recommendations for continued classification that identify documents or specific categories of information so separated.

(2) The head of the agency shall then make the determinations personally and in writing required under sec-

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tion 3-401 of the order as to which documents or categories of information require continued protection. The agency shall inform the Archivist of the United States of this determination (3-4).

d. *Special procedures.* Special procedures for systematic review and declassification of classified cryptologic information and classified information concerning the identities of clandestine human agents promulgated in accordance with the provisions of section 3-403 of the order shall be binding on all agencies (3-403).

e. *Foreign relations series.* In order to permit the editors of foreign relations of the United States to meet their mandated goal of publishing 20 years after the event, heads of departments and agencies are requested to assist the editors in the Department of State by facilitating access to appropriate classified materials in their custody and by expediting declassification review of items from their files selected for publication (3-4).

D. *Procedures for mandatory declassification review.*

1. *U.S.-originated information.—a. Action on an initial request.* Each Agency shall designate, in its implementing regulations published in the FEDERAL REGISTER, offices to which requests for mandatory review for declassification may be directed. Upon request for declassification pursuant to section 3-5 of the order, agencies shall apply the following procedures:

(1) The designated offices shall acknowledge receipt of the request.

(2) Whenever a request does not reasonably describe the information sought, the requestor shall be notified that unless additional information is provided or the scope of the request is narrowed, no further action will be undertaken (3-501).

b. *Information in the custody of and under the exclusive declassification authority of an agency.* The designated office shall determine whether, under the declassification provisions of section 3-3 of the order, the requested information may be declassified and, if so, shall make such information available to the requestor, unless withholding is otherwise warranted under applicable law. If the information may not be released in whole or in part, the requestor shall be given a brief statement as to the reasons for denial, a notice of the right to appeal the determination to a designated agency appellate authority (including name, title, and address of such authority), and a notice that such an appeal must be filed with the agency within 60 days in order to be considered (3-501).

c. *Information classified by agencies other than the custodial agency.* When an agency receives a request for infor-

mation in its custody that was classified by another agency, it shall forward the request to the appropriate agency for review, together with a copy of the document containing the information requested where practicable, and with its recommendation to withhold any of the information where appropriate. Unless the agency that classified the information objects on grounds that its association with the information requires protection, the agency that received the request shall also notify the requestor of the referral. After the agency that classified the information completes its review (in coordination with other agencies that a direct interest in the subject matter), a response shall be sent to the requestor in accordance with the procedures described above. If requested, the agency shall also communicate its determination to the referring agency (3-501).

d. *Action on appeal.* The head of an agency or a designee shall establish procedures to act within 30 days upon all appeals of denials of requests for declassification. These procedures shall provide for meaningful appellate consideration, shall be forwarded to the Oversight Office for review, and shall be published in the FEDERAL REGISTER. In accordance with these procedures, agencies shall determine whether continued classification is required in whole or in part, notify the requestor of the determination, and make available any information that is declassified and otherwise releasable. If continued classification is required under the provisions of section 3-3 of the order, the requestor shall be notified of the reasons therefor. If requested, the agency shall also communicate the appeal determination to any referring agency (3-5 and 5-404(c)).

e. *Fees.* If the request requires the rendering of services for which fair and equitable fees may be charged pursuant to title 5 of the Independent Offices Appropriation Act, 65 Stat. 290, 31 U.S.C. 483a (1976), such fees may be imposed at the discretion of the agency rendering the services. Schedules of such fees shall be published in the FEDERAL REGISTER (3-601).

2. *Foreign government information.* Except as provided hereinafter, requests for mandatory review for the declassification of classified documents that contain foreign government information shall be processed and acted upon in accordance with the provisions of section D.1 above. If the agency receiving the request is also the agency that initially received or classified the foreign government information, it shall determine whether the foreign government information in the document may be declassified and

released in accordance with agency policy or guidelines, after consulting with other agencies that have subject matter interest as necessary. If the agency receiving the request is not the agency that received or classified the foreign government information, it shall refer the request to the appropriate agency, which shall take action as described above, including its recommendation to withhold any of the information where appropriate. In those cases where agency policy or guidelines do not apply, consultation with the foreign originator through appropriate channels may be advisable prior to final action on the request (3-5).

IV. SAFEGUARDING

A. *General information classified pursuant to Executive Order 12065 or prior orders shall be afforded a level of protection against unauthorized disclosure commensurate with its level of classification (4-1).*

B. *General restrictions on access.*

1. *Determination of need-to-know.* Classified information shall be made available to a person only when the possessor of the classified information establishes in each instance, except as provided in section 4-3 of the order, that access is essential to the accomplishment of official Government duties or contractual obligations (4-101).

2. *Determination of trustworthiness.* A person is eligible for access to classified information only after a showing of trustworthiness as determined by agency heads based upon appropriate investigations in accordance with applicable standards and criteria (4-101).

C. *Access by historical researchers and former Presidential appointees.* Agencies shall obtain: (1) Written agreements from requestors to safeguard the information to which they are given access as permitted by the order and this directive; and (2) written consent to the agency's review of their notes and manuscripts for the purpose of determining that no classified information is contained therein. A determination of trustworthiness is a precondition to a requestor's access. If the access requested by historical researchers and former Presidential appointees requires the rendering of services for which fair and equitable fees may be charged pursuant to title 5 of the Independent Offices Appropriations Act, 65 Stat. 290, 31 U.S.C. 483a (1976), the requestor shall be so notified and the fees may be imposed (4-3).

D. *Dissemination.* Except as otherwise provided by section 102 of the National Security Act of 1947, 61 Stat. 495, 50 U.S.C. 403 (1970 and Supp. V 1975), classified information originating in one agency may not be disseminated outside any other agency to

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which it has been made available without the consent of the originating agency (4-403).

E. Accountability procedures.—1. Top secret. Top secret control officers shall be designated to receive, transmit, and maintain current access and accountability records for top secret information. An inventory of top secret documents shall be made at least annually; however, heads of agencies may authorize the annual inventory of top secret documents in repositories, libraries, or activities that store large volumes of such information to be limited to documents to which access has been afforded within the past 12 months. The Director of the Oversight Office may grant a waiver with respect to the requirement of an annual inventory for storage systems involving large volumes of information if security measures with respect to such storage systems are adequate to prevent access by unauthorized persons (4-103).

2. Secret and confidential. Secret and confidential classified information shall be subject to such controls and current accountability records as the head of the agency may prescribe (4-103).

F. Storage. Classified information shall be stored only in facilities or under conditions adequate to prevent unauthorized persons from gaining access to it (4-103).

1. Top secret. Top secret information shall be stored in a GSA-approved, safe-type, steel file cabinet having a built-in, three-position, dial-type combination lock or within an approved vault, or vault-type room, or in other storage facility that meets the standards for top secret established under the provisions of subsection 3 below. In addition, heads of agencies shall prescribe such additional, supplementary controls as are deemed appropriate to restrict unauthorized access to areas where such information is stored (4-103).

2. Secret and confidential. Secret and confidential information shall be stored in a manner and under the conditions prescribed for top secret information, or in a container or vault that meets the standards for secret or confidential, established pursuant to the provisions of subsections 3 or 4 below (4-103).

3. Standards for security equipment. The General Services Administration shall, in coordination with agencies originating classified information, establish and publish uniform standards, specifications, and supply schedules for containers, vaults, alarm systems, and associated security devices suitable for the storage and protection of all categories of classified information. Any agency may establish more stringent standards for its own use. When-

ever new security equipment is procured, it shall be in conformance with the standards and specifications referred to above and shall, to the maximum extent practicable, be of the type designated on the Federal Supply Schedule, General Services Administration (4-103).

4. Exception to standards for security equipment.—a. Secret and confidential information may also be stored in a steel filing cabinet having a built-in, three-position, dial-type, changeable combination lock, or a steel filing cabinet equipped with a steel lock bar, provided it is secured by a three-position, changeable, combination padlock approved by GSA for the purpose. The storage of secret information in the steel filing cabinets described above requires the use of such supplementary controls as the head of the agency deems necessary to achieve the degree of protection warranted by the sensitivity of the information involved (4-103).

b. For protection of bulky secret and confidential material (for example, weaponry containing classified components) in magazines, strong rooms, or closed areas, access openings may be secured by changeable combination or key-operated, high-security padlocks approved by GSA. When key-operated padlocks are used, keys shall be controlled in accordance with subsection 6 below (4-103).

5. Combinations.—a. Equipment in service. Combinations to dial-type locks shall be changed only by persons having appropriate security clearance, and shall be changed whenever such equipment is placed in use, whenever a person knowing the combination no longer requires access to the combination, whenever a combination has been subjected to possible compromise, whenever the equipment is taken out of service, and at least once every year. Knowledge of combinations protecting classified information shall be limited to the minimum number of persons necessary for operating purposes. Records of combinations shall be classified no lower than the highest level of classified information to be stored in the security equipment concerned (4-103).

b. Equipment out of service. When security equipment having a built-in combination lock is taken out of service, the lock shall be reset to the standard combination 50-25-50. Combination padlocks shall be reset to the standard combination 10-20-30 (4-103).

6. Keys. Heads of agencies shall establish administrative procedures for the control and accountability of keys and locks whenever key-operated, high-security padlocks are utilized. The level of protection provided such keys shall be equivalent to that afford-

ed the classified information being protected. Under no circumstances may keys be removed from the premises. They shall be stored in a secure container (4-103).

7. Responsibilities of custodians. Persons entrusted with classified information shall be responsible for providing protection and accountability for such information at all times and for locking classified information in approved security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures that insure unauthorized persons do not gain access to classified information (4-103).

8. Inspections. Individuals charged with the custody of classified information shall conduct the necessary inspections within their areas to insure adherence to procedural safeguards prescribed to protect classified information. Agency security officers shall insure that periodic inspections are made to determine whether procedural safeguards prescribed by agency regulations are in effect at all times (4-103).

G. Transmittal.—1. Preparation and receipting. Classified information shall be enclosed in opaque inner and outer covers before transmitting. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and addresses of both sender and addressee. The outer cover shall be sealed and addressed with no identification of the classification of its contents. A receipt shall be attached to or enclosed in the inner cover, except that confidential information shall require a receipt only if the sender deems it necessary. The receipt shall identify the sender, addressee, and the document, but shall contain no classified information. It shall be immediately signed by the recipient and returned to the sender. Any of these wrapping and receipting requirements may be waived by agency heads under conditions that will provide adequate protection and prevent access by unauthorized persons (4-103).

2. Transmittal of top secret. The transmittal of top secret information shall be by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system specially created for that purpose, or over authorized secure communications circuits (4-103).

3. Transmittal of secret. The transmittal of secret material shall be effected in the following manner:

a. The 50 States, District of Columbia, and Puerto Rico. Secret information may be transmitted within and between the 50 States, District of Columbia, and Puerto Rico by one of the means authorized for top secret infor-

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matron, by the U.S. Postal Service registered mail, or by protective services provided by U.S. air or surface commercial carriers under such conditions as may be prescribed by the head of the agency concerned (4-103).

b. *Canadian Government Installations.* Secret information may be transmitted to and between United States Government and Canadian Government installations in the 50 States, the District of Columbia, and Canada by United States and Canadian registered mail with registered mail receipt (4-103).

c. *Other areas.* Secret information may be transmitted from, to, or within areas other than those specified in subsections a or b above by one of the means established for top secret information, or by U.S. registered mail through Army, Navy, or Air Force Postal Service facilities provided that the information does not at any time pass out of U.S. citizen control and does not pass through a foreign postal system. Transmittal outside such areas may also be accomplished under escort of appropriately cleared personnel aboard U.S. Government and U.S. Government contract vehicles or aircraft, ships of the United States Navy, civil service manned U.S. Naval ships, and ships of U.S. Registry. Operators of vehicles, captains or masters of vessels, and pilots of aircraft who are U.S. citizens and who are appropriately cleared may be designated as escorts (4-103).

4. *Transmittal of confidential information.* Confidential information shall be transmitted within and between the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories or possessions by one of the means established for higher classifications, or by U.S. Postal Service certified, first class, or express mail service when prescribed by an agency head. Outside these areas, confidential information shall be transmitted only as is authorized for higher classifications (4-103).

H. *Loss or possible compromise.* Any person who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances to an official designated by the agency or organization. In turn, the originating agency shall be notified about the loss or compromise in order that a damage assessment may be conducted and appropriate measures taken to negate or minimize any adverse effect of such a compromise. An immediate inquiry shall be initiated by the agency under whose cognizance the loss or compromise occurred, for the purpose of taking corrective measures and appropriate administrative, disciplinary, or legal action (4-103).

I. *Destruction.* Nonrecord classified information that has served its intended purpose shall be destroyed in accordance with procedures and methods approved by the head of the agency. The method of destruction selected must preclude recognition or reconstruction of the classified information or material (4-103).

V. IMPLEMENTATION AND REVIEW

Challenges to classification. Agency programs established to implement the order shall encourage holders of classified information to challenge classification in cases where there is reasonable cause to believe that information is classified unnecessarily, improperly, or for an inappropriate period of time. These programs shall provide for action on such challenges or appeals relating thereto within 30 days of receipt and for notification to the challenger of the results. When requested, anonymity of the challenger shall be preserved (5-404(d)).

VI. GENERAL PROVISIONS

A. *Notification.* Notification of unscheduled changes in classification or changes in duration of classification may be by general rather than specific notice (4-102).

B. *Posted notice.* If prompt remark-

ing of large quantities of information would be unduly burdensome, the custodian may attach a change of classification notice to the storage unit in lieu of the marking action otherwise required. Each notice shall indicate the change, the authority for the action, the date of the action, and the storage units to which it applies. Items permanently withdrawn from such storage units shall be marked promptly in accordance with the marking provisions herein. However, when information subject to a posted downgrading, upgrading, or declassification notice is withdrawn from one storage unit solely for transfer to another, or a storage unit containing such information is transferred from one place to another, the transfer may be made without marking if the notice is attached to or remains with each shipment (4-102).

C. *Downgrading, declassification, and upgrading markings.* Whenever a change is made in the original classification or in the dates of downgrading or declassification of any classified information, it shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action, and the identity of the person taking the action. Earlier classification markings shall be cancelled when practicable (4-102).

D. *Combat operations.* The provisions of the order and this Directive with regard to dissemination, transmittal, or safeguarding of classified information may be so modified in connection with combat or combat-related operations as the Secretary of Defense may by regulations prescribe (4-103).

E. *Publication and effective date.* This directive shall be published in the FEDERAL REGISTER. It shall become effective December 1, 1978 (6-204).

JAMES B. RHOADS,
Acting Chairman, Interagency
Classification Review Committee.

OCTOBER 2, 1978.

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