

Office of the Secretary, Commerce

§4a.7

the need to protect the national defense and foreign relations of the United States. Accordingly, security classification shall be applied only to protect the national security.

§4a.2 Deputy Assistant Secretary for Security.

The Deputy Assistant Secretary for Security (DAS) is responsible for implementing E.O. 12958 and this part.

§4a.3 Classification levels.

Information may be classified as national security information by a designated original classifier of the Department if it is determined that the information concerns one or more of the categories described in §1.5 of E.O. 12958. The levels established by E.O. 12958 (Top Secret, Secret, and Confidential) are the only terms that may be applied to national security information. Except as provided by statute, no other terms shall be used within the Department for the three classification levels.

§4a.4 Classification authority.

Authority to originally classify information as Secret or Confidential may be exercised only by the Secretary of Commerce and by officials to whom such authority is specifically delegated. No official of the Department is authorized to originally classify information as Top Secret.

§4a.5 Duration of classification.

(a) Information shall remain classified no longer than ten years from the date of its original classification, except as provided in §1.6(d) of E.O. 12958. Under E.O. 12958, information may be exempted from declassification within ten years if the unauthorized disclosure of such information could reasonably be expected to cause damage to the national security for more than ten years and meets one of the eight criteria listed in §1.6 (d).

(b) Department of Commerce originally classified information marked for an indefinite duration of classification under predecessor orders to E.O. 12958 shall be declassified after twenty years. Classified information contained in archive records determined to have permanent historical value under Title 44

of the United States Code shall be automatically declassified no longer than 25 years from the date of its original classification, except as provided in §3.4(d) of E.O. 12958.

§4a.6 General.

National security information over which the Department exercises final classification jurisdiction shall be declassified or downgraded as soon as national security considerations permit. If information is declassified, it may continue to be exempt from public disclosure by the Freedom of Information Act (5 U.S.C. 552) or other applicable law.

§4a.7 Mandatory review for declassification.

(a) *Requests.* Classified information under the jurisdiction of the Department is subject to review for declassification upon receipt of a written request that describes the information with sufficient specificity to locate it with a reasonable amount of effort. Requests must be submitted to the Deputy Assistant Secretary for Security, U.S. Department of Commerce, Room 1069, 14th and Constitution Avenue, NW., Washington, DC 20230.

(b) *Exemptions.* The following are exempt from mandatory review for declassification:

(1) Information that has been reviewed for declassification within the past two years;

(2) Information that is the subject of pending litigation;

(3) Information originated by the incumbent President, the incumbent President's White House Staff, committees, commissions, or boards appointed by the incumbent President, or other entities within the Executive Office of the President that solely advise and assist the incumbent President; and

(4) Information specifically exempt from such review by law.

(c) *Processing requirements.* (1) The DAS shall acknowledge receipt of the request directly to the requester. If a request does not adequately describe the information sought in accordance with paragraph (a) of this section, the requester shall be notified that unless additional information is provided, no