

§2.9

- (1) The elapsed time following disclosure;
- (2) The nature and extent of disclosure;
- (3) The ability to bring the fact of reclassification to the attention of persons to whom the information was disclosed;
- (4) The ability to prevent further disclosure; and
- (5) The ability to retrieve the information voluntarily from persons not authorized access in its reclassified state.

(b) Information may be classified or reclassified after it has been requested under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory declassification review provisions of the Order if such classification meets the requirements of the Order and is accomplished personally and on a document-by-document basis by the Secretary of the Treasury, the Deputy Secretary, the Assistant Secretary (Management) or an official with original Top Secret classification authority. Such reclassification actions shall be reported in writing to the Departmental Director of Security.

(c) In no case may information be classified or reclassified in order to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; or to prevent or delay the release of information that does not require protection in the interest of national security.

Subpart B—Derivative Classification

§2.9 Derivative Classification Authority.

Designations of derivative classification authority for national security information are contained in Treasury Order 102-19 (or successor order). The authority to derivatively classify inheres within the office and may be exercised by a person acting in that capacity. There may be additional redelegations of derivative classification authority made pursuant to TO 102-19 (or successor order). Officials identified in Treasury Order 102-19 (or successor

31 CFR Subtitle A (7-1-02 Edition)

order) may also administratively control and decontrol sensitive but unclassified information using the legend "Limited Official Use" and may redelegate their authority to control and decontrol. Such redelegations shall be in writing on TD F 71-01.20 "Designation of Controlling/Decontrolling Officials" (or successor form).

[63 FR 14357, Mar. 25, 1998]

§2.10 Listing derivative classification authorities.

Delegations of derivative classification authority to officials not otherwise identified in §2.9, shall be in writing and reported annually each October 15th to the Departmental Director of Security on TD F 71-01.18 (Report of Authorized Derivative Classifiers). Such delegations shall be limited to the minimum number absolutely required for efficient administration. Periodic reviews and evaluations of such delegations shall be made by the Departmental Director of Security to ensure that officials so designated have demonstrated a continuing need to exercise such authority. If after reviewing and evaluating the information the Departmental Director of Security determines that such officials have not demonstrated a continuing need to exercise such authority, the Departmental Director of Security shall recommend to the Assistant Secretary (Management), as warranted, the reduction or elimination of such authority. The Assistant Secretary (Management) shall take appropriate action in consultation with the affected official(s) and the Departmental Director of Security. Such action may include relinquishment of this authority where the Assistant Secretary (Management) determines that a firm basis for retention does not exist.

§2.11 Use of derivative classification [2.1].

The application of derivative 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 original classifier or in accordance with an approved classification guide.

Office of the Secretary of the Treasury

§ 2.13

If an individual who applies derivative classification markings believes that the paraphrasing, restating or summarizing of classified information has changed the level of or removed the basis for classification, that person must consult an appropriate official of the originating agency or office of origin who has the authority to upgrade, downgrade or declassify the information for a final determination. A sample marking of derivatively classified documents is set forth in § 2.13.

§ 2.12 Classification guides.

(a) *General [2.2(a)]*. A classification guide is a reference manual which assists document drafters and document classifiers in determining what types or categories of material have already been classified. The classification guide shall, at a minimum:

(1) Identify and categorize the elements of information to be protected;

(2) State which classification level applies to each element or category of information; and

(3) Prescribe declassification instructions for each element or category of information in terms of:

(i) A period of time,

(ii) The occurrence of an event, or

(iii) A notation that the information shall not be declassified automatically without the approval of the originating agency i.e., "OADR".

(b) *Review and Record Requirements [2.2(a)]*. (1) Each classification guide shall be kept current and shall be reviewed at least once every two years and updated as necessary. Each office within the Departmental Offices and the respective offices of each Treasury bureau possessing original classification authority for national security information shall maintain a list of all classification guides in current use by them. A copy of each such classification guide in current use shall be furnished to the Departmental Director of Security who shall maintain them on behalf of the Assistant Secretary (Management).

(2) Each office and bureau that prepares and maintains a classification guide shall also maintain a record of individuals authorized to apply derivative classification markings in accordance with a classification guide. This

record shall be maintained on TD F 71-01.18 (Report of Authorized Derivative Classifiers) which shall be reported annually each October 15th to the Departmental Director of Security.

(c) *Waivers [2.2(c)]*. Any authorized official desiring a waiver of the requirement to issue a classification guide shall submit in writing to the Assistant Secretary (Management) a request for approval of such a waiver. Any request for a waiver shall contain, at a minimum, an evaluation of the following factors:

(1) The ability to segregate and describe the elements of information;

(2) The practicality of producing or disseminating the guide because of the nature of the information;

(3) The anticipated usage of the guide as a basis for derivative classification; and

(4) The availability of alternative sources for derivatively classifying the information in a uniform manner.

§ 2.13 Derivative identification and markings [1.5(c) and 2.1(b)].

Information classified derivatively on the basis of source documents or classification guides shall bear all markings prescribed in § 2.7 (a) through (f), as are applicable. Information for these markings shall be taken from the source document or instructions in the appropriate classification guide.

(a) *Classification Authority*. The authority for classification shall be shown as follows:

Derivatively Classified by _____
Office _____
Derived from _____
Declassify on _____

If a document is classified on the basis of more than one source document or classification guide, the authority for classification shall be shown on the "DERIVED FROM" line as follows: "MULTIPLE CLASSIFIED SOURCES". In these cases, the derivative classifier must maintain the identification of *each* source with the file or record copy of the derivatively classified document. A document derivatively classified on the basis of a source document that is marked "MULTIPLE CLASSIFIED SOURCES" shall cite the *source* document on its "DERIVED FROM" line rather than