

qualifies under Section 3.6 of Executive Order 12958.

*Original classification* means an initial determination that information requires, in the interest of national security, protection against unauthorized disclosure.

*Original classification authority* means an individual authorized in writing, either by the President or by agency heads or other officials designated by the President, to classify information in the first instance.

#### § 8.7 Spheres of responsibility.

(a) Pursuant to Section 5.6(c) of Executive Order 12958, and to section 6.1 of Executive Order 12968, the Assistant Secretary for Administration is hereby designated as the senior agency official of the Department of Transportation with assigned responsibilities to assure effective compliance with and implementation of Executive Order 12958, Executive Order 12968, Office of Management and Budget Directives, the regulations in this part, and related issuances.

(b) In the discharge of these responsibilities, the Assistant Secretary for Administration will be assisted by the Director of Security and Administrative Management, who, in addition to other actions directed by this part, will evaluate the overall application of and adherence to the security policies and requirements prescribed in this part and who will report his/her findings and recommendations to the Assistant Secretary for Administration, heads of Departmental elements, and, as appropriate, to the Secretary.

(c) Secretarial Officers and heads of Departmental elements will assure that the provisions in this part are effectively administered, that adequate personnel and funding are provided for this purpose, and that corrective actions that may be warranted are taken promptly.

### Subpart B—Classification/ Declassification of Information

#### § 8.9 Information Security Review Committee.

(a) There is hereby established a Department of Transportation Informa-

tion Security Review Committee, which will have authority to:

(1) Act on all suggestions and complaints not otherwise resolved with respect to the Department's administration of Executive Order 12958 and implementing directives, including those regarding overclassification, failure to declassify, or delay in declassifying;

(2) Act on appeals of requests for classification reviews, and appeals of requests for records under 5 U.S.C. 552 (Freedom of Information Act) when the initial, and proposed final, denials are based on continued classification of the record; and

(3) Recommend to the Secretary, when necessary, appropriate administrative action to correct abuse or violation of any provision of Executive Order 12598 and implementing directives.

(b) The Information Security Review Committee will be composed of the Assistant Secretary for Administration, who will serve as Chair; the General Counsel; and the Director of Security and Administrative Management. When matters affecting a particular Departmental agency are at issue, the Associate Administrator for Administration for that agency, or the Chief of Staff for the U.S. Coast Guard, as the case may be, will participate as an ad hoc member, together with the Chief Counsel of that agency. Any regular member may designate a representative with full power to serve in his/her place.

(c) In carrying out its responsibilities to review decisions to revoke or not to issue clearances, or to deny access to classified information, the Committee will establish whatever procedures it deems fit.

#### § 8.11 Authority to classify information.

(a) Executive Order 12958 confers upon the Secretary of Transportation the authority to originally classify information as SECRET or CONFIDENTIAL with further authorization to delegate this authority.

(b) The following delegations of authority originally to classify information as "Secret" or "Confidential", which may not be redelegated, are hereby made:

### § 8.13

(1) *Office of the Secretary of Transportation.* The Deputy Secretary; Assistant Secretary for Administration; Director of Intelligence and Security; Director of Security and Administrative Management.

(2) *United States Coast Guard.* Commandant; Chief, Office of Law Enforcement and Defense Operations.

(3) *Federal Aviation Administration.* Administrator; Assistant Administrator for Civil Aviation Security.

(4) *Maritime Administration.* Administrator.

(c) Although the delegations of authority set out in paragraph (b) of this section are expressed in terms of positions, the authority is personal and is invested only in the individual occupying the position. The authority may not be exercised "by direction of" a designated official. The formal appointment or assignment of an individual to one of the identified positions or a designation in writing to act in the absence of one of these officials, however, conveys the authority originally to classify information as "SECRET".

(d) Previous delegations and redelegations of authority within the Department of Transportation originally to classify information are hereby rescinded.

#### § 8.13 Authority to downgrade or declassify.

Information originally classified by the Department may be specifically downgraded or declassified by either the official authorizing the original classification, if that official is still serving in the same position, the originator's current successor in function, a supervisory official of either, officials delegated declassification authority in writing by the Secretary, or by the Departmental Information Security Review Committee.

#### § 8.15 Mandatory review for classification.

(a) All information classified by the Department of Transportation under Executive Order 12958 or predecessor orders shall be subject to a review for declassification if:

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(1) The request for review describes the information with sufficient specificity to enable its location with a reasonable amount of effort; and

(2) The information has not been reviewed for declassification within the prior two years. If the information has been reviewed within the prior two years, or the information is the subject of pending litigation, the requestor will be informed of this fact, and of the Department's decision not to declassify the information and of his/her right to appeal the Department's decision not to declassify the information to the Interagency Security Classification Appeals Panel.

(b) All information reviewed for declassification because of a mandatory review will be declassified if it does not meet the standards for classification in Executive Order 12958. The information will then be released unless withholding is otherwise authorized and warranted under applicable law.

#### § 8.17 Classification challenges.

(a) Authorized holders of information classified by the Department of Transportation who, in good faith, believe that its classification status is improper are encouraged and expected to challenge the classification status of the information before the Departmental Information Security Review Committee.

(1) No individual will be subject to retribution for bringing such a challenge; and

(2) Each individual whose challenge is denied will be advised that he/she may appeal to the Interagency Security Classification Appeals Panel established by section 5.4 of Executive Order 12958.

(b) This classification challenge provision is not intended to prevent an authorized holder of information classified by the Department of Transportation from informally questioning the classification status of particular information. Such information inquiries should be encouraged as means to resolve classification concerns and reduce the administrative burden of formal challenges.