

§ 3a.23

18 CFR Ch. I (4-1-13 Edition)

(ii) Develop a list for submission to the Chairman which identifies the materials so separated, with recommendations concerning continued classification. The Chairman will then make the determination required under paragraphs (g) (1) and (2) of this section and cause a list to be created which identifies the documents included in the determination, indicates the reason for continued classification, and specifies the date on which such material shall be declassified.

[Order 470, 38 FR 5161, Feb. 26, 1973, as amended by Order 756, 77 FR 4893, Feb. 1, 2012]

§ 3a.23 Review of classified material for declassification purposes.

(a) All information and material classified after June 1, 1972, and determined in accordance with Chapter 21, title 44, United States Code, to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely basis for the purpose of making such information and material publicly available according to the declassification determination at the time of classification. During each calendar year the FPC shall segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year the FERC, or the Archives of the United States if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

(b) Departments and agencies and members of the public may direct requests for review for declassification, as described in § 3a.22(f), to:

Office of the Secretary, Federal Energy Regulatory Commission, Washington, DC 20426.

The Office of the Secretary will assign the request to the appropriate Bureau or Office for action and will acknowledge in writing the receipt of the request. If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to Title 5 of the Independent Offices Appropriations Act, 1952, 31 U.S.C. 483a,

the requester shall be so notified. The Bureau or Office which is assigned action will make a determination within 30 days of receipt or explain why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the FERC Review Committee (paragraph (g) of this section) for a determination. Should the Bureau or Office assigned the action on a request for review determine that under the criteria set forth in section 5(B) of E.O. 11652 continued classification is required, the requester will be notified promptly and, whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the FERC Review Committee and the notice of determination will advise him of this right.

(c) The FERC Review Committee will establish procedures to review and act within 30 days upon all applications and appeals regarding requests for declassification. The chairman, acting through the committee, is authorized to overrule previous determinations in whole or in part when, in its judgment, continued protection is no longer required. If the committee determines that continued classification is required under the criteria of section 5(B) of E.O. 11652, it will promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

(d) A request by a department or agency or a member of the public to review for declassification documents more than 30 years old shall be referred directly to the Archivist of the United States, and he shall have the requested documents reviewed for declassification. If the information or material requested has been transferred to the General Services Administration for accession into the Archives, the Archivist shall, together with the chairman, have the requested documents reviewed for declassification. Classification shall be continued in either case only when the chairman makes the personal determination indicated in § 3a.22(g)(1).

Federal Energy Regulatory Commission

§ 3a.31

The Archivist shall notify the requester promptly of such determination and of his right to appeal the denial to the Interagency Classification Review Committee.

(e) For purposes of administrative determinations under paragraph (b), (c), or (d) of this section, the burden is on the FERC to show that continued classification is warranted. Upon a determination that the classified material no longer warrants classification, it will be declassified and made available to the requester if not otherwise exempt from disclosure under section 552(b) of Title 5, U.S.C. (Freedom of Information Act) or other provisions of law.

(f) A request for classification review must describe the document with sufficient particularity to enable the FERC to identify it and obtain it with a reasonable amount of effort. Whenever a request is deficient in its description of the record sought, the requester will be asked to provide additional identifying information whenever possible. Before denying a request on the ground that it is unduly burdensome, the requester will be asked to limit his request to records that are reasonably obtainable. If the requester then does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester will be notified of the reasons why no action will be taken and of his right to appeal such decision.

(g) The FERC Review Committee will consist of the Executive Director, as Committee Chairman, the Secretary, and the Director, Office of Public Information, as members. In addition to the activities described in this paragraph, the Review Committee has authority to act on all suggestions and complaints with respect to administration of E.O. 11652 and this part 3a.

(h) The FERC Review Committee is also responsible for recommending to the chairman appropriate administrative action to correct abuse or violation of any provision of E.O. 11652 or NSC directives thereunder, including notifications by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and removal.

(i) The Chairman of the Review Committee will submit through the chairman, FERC, a report quarterly to the Interagency Classification Review Committee, NSC, of actions on classification review requests, classification abuses, and unauthorized disclosures.

[Order 470, 38 FR 5161, Feb. 26, 1973, as amended by Order 756, 77 FR 4893, Feb. 1, 2012]

CLASSIFICATION MARKINGS AND SPECIAL NOTATIONS

§ 3a.31 Classification markings and special notations.

(a) After the chairman, the vice chairman, or the executive director determines that classified information is contained in an original document or other item, the appropriate marking, i.e., Secret or Confidential, will be applied as indicated herein. In addition, each classified document will reflect its date of origin and the Bureau, Office, or Regional Office responsible for its preparation and issuance, and the identity of the highest authority authorizing the classification. Where the individual who signs or otherwise authenticates the document or other item has also authorized the classification, no further annotation as to his identity is required. Each classified document will also show on its face whether it is subject to or exempt from the General Declassification Schedule described in § 3a.22(b).

(1) For marking documents which are subject to the General Declassification Schedule, the following stamp will be used:

(Top Secret, Secret, or Confidential) Classified by _____. Subject to General Declassification Schedule of E.O. 11652, automatically downgraded at 2-year intervals and declassified on December 31, _____ (insert year).

(2) For marking documents which are to be automatically declassified on a given event or date earlier than the General Declassification Schedule the following stamp will be used:

(Top Secret, Secret, or Confidential) Classified by _____. Automatically declassified on _____ (effective date or event).