

(5) Any document containing information concerning foreign nuclear programs that was removed from the Restricted Data category in order to carry out provisions of the National Security Act of 1947, as amended, shall be referred to the Department of Energy.

(6) The Secretary of Energy shall determine when information concerning foreign nuclear programs that was removed from the Restricted Data category in order to carry out the provisions of the National Security Act of 1947, as amended, may be declassified. Unless otherwise determined, information concerning foreign nuclear programs (e.g., intelligence assessments or reports, foreign nuclear program information provided to the U.S. Government) shall be declassified when comparable information concerning the United States nuclear program is declassified. When the Secretary of Energy determines that information concerning foreign nuclear programs may be declassified, any remaining information classified under the Order must be referred to the appropriate agency in accordance with the declassification provisions of the Order and this Directive.

§ 2001.31 Systematic declassification review.

(a) *General.* Agencies shall establish systematic review programs for those records containing information exempted from automatic declassification. This includes individual records as well as file series of records. Agencies shall prioritize their review of such records in accordance with priorities established by the NDC.

§ 2001.32 Declassification guides.

(a) *Preparation of declassification guides.* Beginning one year after the effective date of this directive, declassification guides must be submitted to the Director of ISOO, serving as the Executive Secretary of the Panel, at least one year prior to the onset of automatic declassification for approval by the Panel. Currently approved guides remain in effect until a new guide is approved, to the extent they are otherwise applied consistent with section 3.3(b) of the Order. The infor-

mation to be exempted must be narrowly defined, with sufficient specificity to allow the user to identify the information with precision. Exemptions must be based upon specific content and not type of document. Exemptions for general categories of information are not acceptable. Agencies must prepare guides that clearly delineate between the exemptions proposed under sections 3.3(b), 3.3(h)(1) and (2), and 3.3(h)(3).

(b) *General content of declassification guides.* Declassification guides must be specific and detailed as to the information requiring continued classification and clearly and demonstrably explain the reasons for continued classification. Declassification guides shall:

(1) Be submitted by the agency head or the designated senior agency official;

(2) Provide the date of issuance or last review;

(3) State precisely the information that the agency proposes to exempt from automatic declassification and to specifically declassify;

(4) Identify any related files series that have been exempted from automatic declassification pursuant to section 3.3(c) of the Order; and

(5) To the extent a guide is used in conjunction with the automatic declassification provisions in section 3.3 of the Order, state precisely the elements of information to be exempted from declassification to include:

(i) The appropriate exemption category listed in section 3.3(b), and, if appropriate, section 3.3(h) of the Order; and

(ii) A date or event for declassification that is in accordance with section 3.3(b) or section 3.3(h).

(c) *Internal review and update.* Agency declassification guides shall be reviewed and updated as circumstances require, but at least once every five years. Each agency shall maintain a list of its declassification guides in use.

(d) *Dissemination of guides.* (1) Declassification guides shall be disseminated within the agency to be used by all personnel with declassification review responsibilities.

(2) Declassification guides or detailed declassification guidance shall be submitted to the Director of the NDC in

accordance with section 3.7(b)(3) of the Order.

§ 2001.33 Mandatory review for declassification.

(a) *U.S. originated information*—(1) *Regulations.* Each agency shall publish, and update as needed or required, in the FEDERAL REGISTER regulations concerning the handling of mandatory declassification review requests, to include the identity of the person(s) or office(s) to which requests should be addressed.

(2) *Processing*—(i) *Requests for classified records in the custody of the originating agency.* A valid mandatory declassification review request must be of sufficient specificity to allow agency personnel to locate the records containing the information sought with a reasonable amount of effort. Requests for broad types of information, entire file series of records, or similar non-specific requests may be denied by agencies for processing under this section. In responding to mandatory declassification review requests, agencies shall make a final determination within one year from the date of receipt. When information cannot be declassified in its entirety, agencies shall make reasonable efforts to release, consistent with other applicable laws, those declassified portions of the requested information that constitute a coherent segment. Upon denial, in whole or in part, of an initial request, the agency shall also notify the requestor of the right of an administrative appeal, which must be filed within 60 days of receipt of the denial. Agencies receiving mandatory review requests are expected to conduct a line-by-line review of the record(s) for public access and are expected to release the information to the requestor, unless that information is prohibited from release under the provisions of a statutory authority, such as, but not limited to, the Freedom of Information Act, (5 U.S.C. 552), as amended, the Presidential Records Act of 1978 (44 U.S.C. 2201–2207), or the National Security Act of 1947 (Pub. L. 235, 61 Stat. 496, 50 U.S.C. Chapter 15).

(ii) *Requests for classified records in the custody of an agency other than the originating agency.* When an agency receives

a mandatory declassification review request for records in its possession that were originated by another agency, it shall refer the request and the pertinent records to the originating agency. However, if the originating agency has previously agreed that the custodial agency may review its records, the custodial agency shall review the requested records in accordance with declassification guides or guidelines provided by the originating agency. Upon receipt of a request from the referring agency, the originating agency shall promptly process the request for declassification and release in accordance with this section. The originating agency shall communicate its declassification determination to the referring agency. The referring agency is responsible for collecting all agency review results and informing the requestor of any final decision regarding the declassification of the requested information unless a prior arrangement has been made with the originating agency.

(iii) *Appeals of denials of mandatory declassification review requests.* The agency appellate authority shall normally make a determination within 60 working days following the receipt of an appeal. If additional time is required to make a determination, the agency appellate authority shall notify the requester of the additional time needed and provide the requester with the reason for the extension. The agency appellate authority shall notify the requestor in writing of the final determination and of the reasons for any denial. The appellate authority must inform the requestor of his or her final appeal rights to the Panel.

(iv) *Appeals to the Interagency Security Classification Appeals Panel.* In accordance with section 5.3(c) of the Order, the Panel shall publish in the FEDERAL REGISTER the rules and procedures for bringing mandatory declassification appeals before it.

(v) *Records subject to mandatory declassification review.* Records containing information exempted from automatic declassification in accordance with section 3.3(c) of the Order or with § 2001.30(n)(1) are still subject to the mandatory declassification review provisions of section 3.5 of the Order.