

Personal exemption deduction (\$3,000 × \$60,000/\$80,000).....	2,250
Total	37,500
Portion of C's taxable income attributable to the interest in the partnership.....	22,500

C has a deduction under section 1202 of \$3,000. Of that deduction, \$2,000 is attributable directly to C's interest in the partnership (50 percent of the net capital gain that would result from offsetting the \$6,000 net long-term capital gain and the \$2,000 net short-term capital loss that are attributable to C's interest in the partnership). Since the remaining \$1,000 deduction under section 1202 cannot be attributed directly to either C's income from the partnership or any other specific activity, it must be treated as a deduction not attributable to a specific activity.

(e) *Deductions not attributable to a specific activity*—(1) "Specific activity" defined. A "specific activity" means a course of continuous conduct involving a particular line of endeavor, whether or not the activity is carried on for profit. Examples of a specific activity are:

(i) A trade or business carried on by the taxpayer;

(ii) A trade or business carried on by an entity in which the taxpayer has an interest;

(iii) An activity with respect to which the taxpayer is entitled to a deduction under section 212;

(iv) The operation of a farm as a hobby.

(2) *Types of deductions not attributable to a specific activity*. Examples of deductions not attributable to a specific activity include charitable contributions made by the partner, beneficiary, or shareholder; medical expenses; alimony; interest on personal debts of the partner, beneficiary, or shareholder; and real estate taxes on the personal residence of the partner, beneficiary, or shareholder. For purposes of this section, in cases in which deductions are not itemized, the zero bracket amount is considered to be a deduction not attributable to a specific activity.

(f) *Carryback or carryover of credit subject to separate limitation*. A credit subject to the separate limitation under section 53(b) that is carried back or carried over to another taxable year is also subject to the separate limitation in the carryback or carryover year. The taxpayer to whom the credit has been passed through shall not be prevented from applying the unused portion in a carryback or carryover year merely because the entity that earned the credit changes its form of conducting business if the nature of its trade or business essentially remains the same. The computa-

tion of the separate limitation in such a case shall reflect the income attributable to the taxpayer's interest in the entity in its revised form. Thus, a shareholder carrying over a credit from a subchapter S corporation may include dividends declared by that corporation after the subchapter S election had been terminated as income attributable to that person's interest in the entity. Similarly, if a partnership incorporates in a carryover year, any income attributable to an interest in the corporation will be regarded, for purposes of computing the separate limitation under section 53(b), as income attributable to an interest in the entity.

[FR Doc. 78-36053 Filed 12-27-78; 8:45 am]

[4830-01-M]

SUBCHAPTER B—MISCELLANEOUS PROVISIONS

[T.D. 7581]

PART 404—TEMPORARY REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER THE TAX REFORM ACT OF 1976

Disclosure of Taxpayer Name Information to Officers and Employees of the Bureau of the Census for Certain Statistical Purposes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains amendments to the temporary regulations relating to disclosure by the Internal Revenue Service of certain described return information to officers and employees of the Bureau of the Census for certain statistical purposes and related activities. These amendments add to the disclosure authority contained in the existing regulations.

DATE: These regulations authorize the disclosure of taxpayer name information for certain statistical purposes of evaluating the completeness of censuses after the date of publication of this Treasury decision.

FOR FURTHER INFORMATION CONTACT:

Diane L. Renfro of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. Attention: CC:LR:T, 202-566-3459, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains amendments to the Temporary Regulations on Procedure and Administration relating to disclosure of taxpayer name information to the Bureau of the Census under section 6103(j)(1) of the Internal Revenue Code of 1954 as added by section 1202 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1678).

DISCLOSURE OF TAXPAYER NAME INFORMATION FOR CERTAIN STATISTICAL PURPOSES

These temporary regulations amend § 404.6103(j)(1)-1(b)(1)(i) of the existing temporary regulations to allow the Service to disclose taxpayer name information to the Bureau of the Census, in addition to other taxpayer identity information (i.e., the taxpayer's address and social security or employer identification number) which the Service is presently authorized to disclose to the Bureau under this particular provision of the regulations, for purposes of developing estimates of census undercounts for geographic areas by comparing such names with name information which the Bureau derives from its own census activities. These census undercounts are then used to evaluate the completeness of census coverage.

Accordingly, § 404.6103(j)(1)-1(b)(1)(i) is amended to permit the disclosure of taxpayer name information where necessary to evaluate the completeness of census coverage.

DRAFTING INFORMATION

The principal author of this regulation was Diane L. Renfro of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

WAIVER OF CERTAIN PROCEDURAL REQUIREMENTS OF PROPOSED TREASURY DIRECTIVE

A determination has been made by one of the undersigned, Jerome Kurtz, Commissioner of Internal Revenue, that there is an immediate need for amendment of the temporary regulations under section 6103(j)(1) of the Internal Revenue Code to allow disclosure of taxpayer name information to the Bureau of the Census in order for it to evaluate the completeness of censuses. Because of the immediate need for such information, compliance with the procedural requirements of paragraphs 8 through 13 of the proposed Treasury directive, relating to improving regulations (43 FR 22319), would

be impracticable, and, therefore, these requirements have not been followed.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

In order to amend the Temporary Regulations on Procedure and Administration (26 CFR Part 404) to allow for certain additional disclosures to the Bureau of the Census, such regulations are amended to read as follows:

Section 404.6103 (j) (1)-1 (b) (1) (i) of the Temporary Regulations on procedure and Administration is amended to read as follows:

§ 404.6103 (j) (1)-1 *Disclosure of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.*

(b) *Disclosure of return information to officers and employees of the Bureau of the Census.* (1) ***

(i) Taxpayer identity information (as defined in section 6103 (b) (6) other than the name of the taxpayer except where necessary to evaluate the completeness of census coverage), validity code with respect to the taxpayer identifying number (as described in section 6109), and taxpayer identifying number of spouse, if reported;

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 6103 (j) (1) of the Internal Revenue Code of 1954 (90 Stat. 1678; 26 U.S.C. 6103 (j) (1) and section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of
Internal Revenue.

Approved: December 15, 1978.

DONALD C. LUBICK,
Assistant Secretary
of the Treasury.

§ 404.6103(j)(1)-1 *Disclosures of return information to officers and employees of the Department of Commerce for certain statistical purposes and related activities.*

(b) *Disclosure of return information to officers and employees of the Bureau of the Census.* (1) Officers or employees of the Internal Revenue

Service will disclose the following return information reflected on returns of an individual taxpayer to officers and employees of the Bureau of the Census for purposes of conducting and preparing, as authorized by law, intercensal estimates of population and per capita income for all geographic areas included in the general revenue sharing program and demographic statistics programs, censuses and related program evaluation:

(i) Taxpayer identity information (as defined in section 6103 (b) (6) other than the name of the taxpayer except where necessary to evaluate the completeness of census coverage), validity code with respect to the taxpayer identifying number (as described in section 6109), and taxpayer identifying number of spouse, if reported;

[FR Doc. 78-36052 Filed 12-27-78; 8:45 am]

[4810-25-M]

Title 31—Money and Finance: Treasury

SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY

PART 2—CLASSIFICATION, DOWNGRADING, DECLASSIFICATION AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: These regulations supersede the Department's regulations at 31 CFR Part 2 which were first published at 38 FR 19322, July 19, 1973. These regulations implement Executive Order 12065, 43 FR 28949, June 28, 1978 (hereinafter referred to as the Order), and the Information Security Oversight Office Directive, 43 FR 46280, October 5, 1978 (hereinafter referred to as the Directive), relating to the classification, downgrading, declassification and safeguarding of national security information. The Order increases openness in Government by limiting the classification of documents and by accelerating the declassification of other documents, while providing improved protection against unauthorized disclosure of information which requires protection in the interest of national security.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Dennis E. Southern, Assistant Direc-

tor (Physical Security), Office of Administrative Programs, Department of the Treasury, Washington, D.C. 20220, (202) 376-0763.

SUPPLEMENTARY INFORMATION: The sections in these regulations follow the format of the Directive. These regulations have been submitted to the Information Security Oversight Office in accordance with section 5-401 of Executive Order 12065.

The Department considers all regulations, or amendments to existing regulations, published in the FEDERAL REGISTER and codified in the Code of Federal Regulations to be significant regulations, unless specifically determined and expressly justified to be otherwise. In this regard, it has been determined that this final rule is not subject to the notice and public procedure requirements of Executive Order 12044, March 24, 1978, "Improving Government Regulations," and the Department's regulations implementing that Order, 43 FR 52120, November 8, 1978, because the regulations are "required to implement a statute, an international agreement, a court decision, or a regulatory action of another agency, bureau, or office, and no substantial element of discretion is afforded the rulemaker," and because the regulations are "essentially procedural." Additionally, as these regulations are "rules of agency organization, procedure or practice," notice and public procedure respecting these regulations are not deemed necessary or appropriate under 5 U.S.C. 553(b)(A).

Part 2 of Title 31 is revised as follows:

Subpart A—Original Classification

- Sec.
- 2.1 Definitions.
- 2.2 Classification Authority.
- 2.3 [Reserved]
- 2.4 Record Requirements.
- 2.5 Classification Procedure.
- 2.6 Foreign Government Information.
- 2.7 Standard Identification and Markings.
- 2.8 Additional Markings Required.
- 2.9 Abbreviations.

Subpart B—Derivative Classification

- 2.10 Definitions.
- 2.11 Responsibility.
- 2.12 Marking Derivatively Classified Documents.
- 2.13 Classification Guides.

Subpart C—Downgrading and Declassification

- 2.14 Record Requirements.
- 2.15 Declassification Policy.
- 2.16 Downgrading, Declassification and Upgrading Markings.
- 2.17 Systematic Review for Declassifications.
- 2.18 Procedures for Mandatory Declassification Review.

Subpart D—Safeguarding

- Sec.
- 2.19 General.
- 2.20 General Restrictions on Access.
- 2.21 Access by Historical Researchers, Former Presidential Appointees and Employees of Federal Reserve Banks.
- 2.22 Dissemination.
- 2.23 Accountability Procedures.
- 2.24 Storage.
- 2.25 Transmittal.
- 2.26 Telecommunications Transmissions.
- 2.27 Destruction.

Subpart E—Implementation and Review

- 2.28 Departmental Committee on National Security.
- 2.29 Departmental Administration.
- 2.30 Bureau Administration.
- 2.31 Briefing of Employees.
- 2.32 Debriefing of Employees.
- 2.33 Applicability.
- 2.34 Disciplinary Action.
- 2.35 Challenges to Classification.

Subpart F—General Provisions

- 2.36 Notification.
- 2.37 Posted Notice.

AUTHORITY: Executive Order 12065 and Information Security Oversight Office Directive.

Subpart A—Original Classification

§ 2.1 Definitions.

(a) "Original classification" as used in these regulations means an initial determination that information requires protection against unauthorized disclosure in the interest of national security, and a designation of the level of classification.¹

(b) "Top Secret" shall be applied only to information, the unauthorized disclosure of which could reasonably be expected to cause exceptionally grave damage to the national security. Examples of exceptionally grave damage include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security.

(c) "Secret" shall be applied only to information, the unauthorized disclosure of which could reasonably be expected to cause serious damage to the national security. Examples of serious damage include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security.

¹ Parenthetical references are to related sections of Executive Order 12065.

(d) "Confidential" shall be applied to information, the unauthorized disclosure of which could reasonably be expected to cause identifiable damage to the national security. Examples of identifiable damage include the compromise of information which indicates the strength of ground, air, and naval forces in the United States and overseas areas; disclosure of technical information used for training, maintenance, and inspection of classified munitions of war; revelation of performance characteristics, test data, design, and production data on munitions of war.

§ 2.2 Classification Authority.

(a) The authority to originally classify national security information as Top Secret, Secret or Confidential within the Department of the Treasury may be exercised by the Deputy Secretary, the Under Secretary (Monetary Affairs), the Under Secretary, the General Counsel, the Assistant Secretary (International Affairs), the Fiscal Assistant Secretary, the Assistant Secretary (Administration), the Assistant Secretary (Legislative Affairs), the Assistant Secretary (Enforcement and Operations), the two Executive Assistants to the Secretary, the Executive Assistant to the Deputy Secretary, the Executive Secretary, the Special Assistant to the Secretary (National Security) and the Special Assistant (Intelligence and Terrorism) to the Assistant Secretary (Enforcement and Operations). The authority inheres in the office and may be exercised by a person acting in that office. These officials are not authorized to delegate authority to classify information as Top Secret or Secret, but may delegate authority to classify information as Confidential.

(b) The authority to originally classify national security information as Secret or Confidential within the Department of the Treasury may be exercised by the Commissioner, Internal Revenue Service; the Assistant Secretary (Tax Policy); the Director, Bureau of Alcohol, Tobacco and Firearms; the Commissioner, U.S. Customs Service; the Director, Bureau of Engraving and Printing; and the Director, U.S. Secret Service. This authority is not redelegable.

(c) The authority to originally classify national security information as Confidential within the Department of the Treasury may be exercised by the Assistant Secretary (Domestic Finance); the Assistant Secretary (Economic Policy); the Assistant Secretary (Public Affairs); the Comptroller of the Currency; the Commissioner, Bureau of Government Financial Operations; the Commissioner, Bureau of the Public Debt; the Director, Bureau of the Mint; and the Director, Federal

Law Enforcement Training Center. Officials authorized to classify information as Confidential can not redelegate such authority.

(d) Delegations of original Confidential classification authority shall be in writing and shall be reported in writing to the Assistant Secretary (Administration). These delegations shall be limited to the minimum number absolutely required for efficient administration. Periodic reviews of such delegations shall be made to insure that the officials so designated have demonstrated a continuing need to exercise such authority.

§ 2.3 [Reserved].

§ 2.4 Record requirements.

The Assistant Secretary (Administration) shall maintain a listing by name and position title of the officials in the Office of the Secretary who are authorized under these regulations to originally classify information as Top Secret, Secret or Confidential. An official within the Office of the Secretary with Top Secret classification authority shall report in writing to the Assistant Secretary (Administration) the names and position titles of the officials designated by that official in writing to have original Confidential classification authority. The head of each bureau shall maintain a similar listing of the officials in his/her bureau authorized to apply an original confidential classification and shall furnish a copy of each listing to the Assistant Secretary (Administration). This listing shall be compiled as of January 1, 1979, and updated no less than semi-annually.

§ 2.5 Classification procedure.

(a) No document originated on or after December 1, 1978, may be classified after the Department of the Treasury has received a request for the document under the Freedom of Information Act, as amended, or the Mandatory Review provisions of the Order (3-5), unless such classification is authorized by the Secretary or Deputy Secretary and unless the classification is consistent with these regulations. Documents originated before December 1, 1978 and subject to such a request may not be classified unless such classification is consistent with the Order and is authorized by the Assistant Secretary (Administration) or by an official with Top Secret classification authority. Classification authority under this provision shall be exercised personally, on a document-by-document basis.

(b) Classification may not be restored to documents already declassified and released to the public under the Order or prior Orders.

(c) The fact that the information concerns one or more of the criteria for classification of Section 1-301 of the Order does not create a presumption that the information meets the damage tests of Sections 1-302 and 1-303.

§ 2.6 Foreign government information.

(a) *Identification.* "Foreign government information" is:

(1) Information provided to the United States by a foreign government or international organization of governments in the expectation, express or implied, that the information is to be kept in confidence; or

(2) Information produced by the United States pursuant to a written joint arrangement with a foreign government or international organization of governments requiring that either the information or the arrangement, or both, be kept in confidence. Such a written joint arrangement may be evidenced by an exchange of letters, a memorandum of understanding, or other written record (1-303 and 6-103).

(b) *Duration of classification for foreign government information.* (1) Foreign government information shall not be assigned a date or event for automatic declassification unless such is specified or agreed to by the foreign government or international organization of governments.

(2) Foreign government information classified after December 1, 1978, shall be assigned a date for review for declassification up to 30 years from the time the information was classified or acquired. (1-402 and 3-404).

§ 2.7 Standard identification and markings.

At the time of original classification, the following shall be shown on the face of paper copies of all classified documents:

(a) *Identity of classifier.* The identity of the classifier, unless also the signer or approver of the document, shall be shown on a "classified by" line; e.g., "Classified by John Doe" or "Classified by Director, XXX" (1-501(a)).

(b) *Date of classification and office of origin.* The date and office of origin on a document at the time of its origination may be considered the date of classification and identification of the office of origin (1-501(b)).

(c) *Date or event for declassification or review.* The date for automatic declassification or for declassification review shall be shown on a "declassify on" or a "review for declassification on" line; e.g., "Declassify on November 1, 1984," or "Declassify on completion of State visit," or "Review for declassification on November 1, 1998" (1-501(c)). An example of such a marking is as follows:

Classified by _____
☐ Declassified ☐ Review for
 Declassification on _____

(d) *Downgrading markings.* When it is determined (e.g., in a classification guide) that a classified document should be downgraded automatically at a certain date or upon a certain event, that date or event shall be recorded on the face of the document; e.g., "Downgraded to Secret on November 1, 1990" or "Downgraded to Confidential on November 1, 1985" (1-5).

(e) *Duration of classification and identity of extension authority.* Each original classification authority shall set a date or event for automatic declassification no more than six years beyond the date of the original classification. Only officials with Top Secret classification authority may classify information for more than six years from the date of the original classification. The identity of the official who authorizes a date for declassification or for review for declassification that is more than 6 years beyond the date of the document's classification shall be shown on the document, unless that official also is the classifier, signer, or approver of the document. This marking shall be shown substantially as follows: "Extended by (Insert name, date and title of position of Top Secret classification authority)". For classification of foreign government information see § 2.6 (1-502).

(f) *Reason for extension.* When classification is extended beyond 6 years, the reason shall be stated on the document either in narrative form or by reference to the Departmental or bureau regulation or guideline which state the reason for extension. The reason shall be shown substantially as follows: "Reason for extension: (State reason or applicable reference)" (1-502).

An example of such a marking is as follows:

Extended by _____
 on (date) _____
 Reason for extension _____

(g) *Overall and page marking of documents.* The overall classification of a document shall be marked, stamped, or affixed permanently at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, and on the outside of the back cover (if any). Each interior page of a classified document shall be marked or stamped at the top and bottom either according to the highest classification of the content of the page, including the designation "Unclassified" when appropriate, or according to the highest overall classification of the document. In any case, the classification marking of the page shall not supersede the classification marking of portions of the page

marked with lower levels of classification (1-501(d)).

(h) *Subjects and titles.* Whenever practicable, subjects and titles shall be selected so as not to require classification. When the subject or title is classified, an unclassified identifier may be assigned to facilitate receipting and reference (1-5).

(i) *Mandatory portion marking.* Classifiers shall identify the level of classification of each classified portion of a document (including subjects and titles), and those portions that are not classified. Portion marking shall be accomplished by placing a parenthetical designator immediately preceding or following the text that it governs. The symbols "(TS)" for Top Secret, "(S)" for Secret, "(C)" for Confidential, and "(U)" for unclassified shall be used for this purpose. If individual portion marking is impracticable, the document shall contain a description sufficient to identify the information that is classified and the level of such classification. A waiver of the portion marking requirement may be granted by the Director of the Information Security Oversight Office. Requests for such waivers shall be made by the Secretary, or his designee to the Director and shall include: (1) Identification of the information or classes of documents for which such waiver is sought, (2) a detailed explanation of why the waiver should be granted, (3) the Department's best judgment as to the anticipated dissemination of the information or class of documents for which waiver is sought, and (4) the extent to which the information subject to the waiver may form a basis for classification of other documents (1-504).

(j) *Material other than documents.* The classification and associated markings prescribed by these regulations shall, where practicable, be affixed to material other than documents by stamping, tagging, or other means. If this is not practicable, recipients shall be made aware of the classification and associated markings by notification or other means (1-5).

(k) *Transmittal documents.* A transmittal document shall indicate on its face the highest classification of the information transmitted by it and the classification, if any, of the transmittal document. For example, an unclassified transmittal document should bear a notation substantially as follows: "Unclassified When Classified Enclosure(s) is Detached" (1-5).

(l) *Marking foreign government information.* Except in those cases where such markings would reveal intelligence information, foreign government information incorporated in United States documents shall, whenever practicable, be identified in such manner as to ensure that the foreign

government information is not declassified prematurely or made accessible to nationals of a third country without consent of the originator. Documents classified by a foreign government or an international organization of governments shall, if the foreign classification is not in English, be marked with the equivalent or appropriate U.S. classification. Foreign government information not classified by a foreign government or an international organization of governments, but provided to the United States in confidence by a foreign government or by an international organization of governments shall be classified at an appropriate level and shall be marked with the U.S. classification accordingly (1-5).

§ 2.8 Additional markings required.

In addition to the marking requirements in § 2.7, the following markings shall, as appropriate, be displayed prominently on classified information. When display of these additional markings is not practicable, their applicability to the information shall be included in the written notification of the assigned classification (1-5).

(a) *Restricted data or formerly restricted data.* For classified information containing restricted data or formerly restricted data as defined in the Atomic Energy Act of 1954, as amended, such markings as may be prescribed by the Department of Energy in regulations issued pursuant to the act shall be applied.

(b) *Intelligence sources and methods information.* For classified information involving intelligence sources or methods: "WARNING NOTICE—INTELLIGENCE SOURCES AND METHODS INVOLVED".

(c) *Dissemination and reproduction notice.* For classified information that the originator has determined, pursuant to Section 1-506 of the Order, should be subject to special dissemination or reproduction limitations, or both, a statement placing the user on notice of the restrictions shall be included in the text of the document or on its cover sheet; e.g., "Reproduction requires approval of originator," or "Further dissemination only as directed by (Insert appropriate office or official)" (1-506).

§ 2.9 Abbreviations.

Classified documents that are transmitted electrically may be marked with abbreviations or codes in a single line to satisfy the requirements of § 2.7 and § 2.8 in a manner consistent with economic and efficient use of electrical transmission systems, provided that the full text represented by each such abbreviation or code and its relation to § 2.7 and § 2.8 is readily available to

each expected user of the classified documents affected.

Subpart B—Derivative Classification

§ 2.10 Definition.

"Derivative classification," as used in these regulations, means a determination that information is in substance the same as information that is currently classified, and a designation of the level of classification (2-1).

§ 2.11 Responsibility.

Derivative application of 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 classifier or in accordance with an authorized classification guide. Persons who apply derivative classification markings should take care to determine whether their paraphrasing, restating, or summarizing of classified information has removed the basis for classification. Where checks with originators or other appropriate inquiries show that no classification or a lower classification than originally assigned is appropriate, the derivative document shall be issued as unclassified or shall be marked appropriately (2-101 and 2-102).

§ 2.12 Marking derivatively classified documents.

Paper copies of derivatively classified documents shall be marked at the time of origination as follows:

(a) The classification authority shall be shown on a "classified by" line; e.g., "Classified by (Insert identity of classification guide)" or "Classified by (Insert source of original classification)." If the classification is derived from more than one source, the single phrase "multiple sources" may be shown, provided that identification of each such source is maintained with the file or record copy of the document (2-102(c));

(b) The identity of the office originating the derivatively classified document shall be shown on the face of the document (2-102).

(c) Dates or events for declassification or review shall be carried forward from the source material or classification guide and shown on a "declassify on" or "review for declassification on" line. If the classification is derived from more than one source, the latest date for declassification or review applicable to the various source material shall be applied to the new information (2-102(c));

(d) The classification marking provisions of § 2.7 (g)(h) and (i) and also § 2.7(1) are also applicable to derivatively classified documents (2-101(c));

(e) Any additional marking under § 2.8 appearing on the source material shall be carried forward to the new material when appropriate (2-102(c)); and

(f) Any abbreviation or code permitted under § 2.9 may be applied to derivatively classified documents.

§ 2.13 Classification guides.

(a) *Requirements.* Classification guides issued pursuant to Section 2-2 of the Order shall:

(1) Identify the information to be protected, using categorization to the extent necessary to insure that the information involved can be identified readily and uniformly (2-201);

(2) State which of the classification designations (i.e., Top Secret, Secret, or Confidential) applies to the information (2-201);

(3) State the duration of classification in terms of a period of time or future event. When such duration is to exceed 6 years, the reason for such extension shall be provided in the guide. However, if the inclusion of classified reasons would result in a level of classification for a guide that would inhibit its desirable and required dissemination, those reasons need be recorded only on or with the record copy of the guide (2-201); and

(4) Indicate how the designations, time limits, markings, and other requirements of the Order, the Directive and these regulations are to be applied (2-201).

(b) *Review and record requirements.* Each classification guide shall be kept current and shall be reviewed at least once every 2 years. Each office within the Office of the Secretary 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 shall be furnished to the Assistant Secretary (Administration) (2-2).

Subpart C—Downgrading and Declassification

§ 2.14 Record requirements.

Downgrading and declassification authority may be exercised by:

(a) The official authorizing the original classification, a successor in that capacity, or a supervisory official of either.

(b) Any official specifically authorized in writing by an official authorized to originally classify information as Top Secret or Secret. Officials who are authorized to originally classify information as Top Secret or Secret shall maintain a record, copy to the Assistant Secretary (Administration), of individuals or positions who such

officials designated as downgrading and declassification authorities.

§ 2.15 Declassification policy.

In making determinations under Sections 3-303 of the Order, officials shall respect the intent of the Order to protect foreign government information and confidential foreign sources (3-303).

§ 2.16 Downgrading, declassification, and upgrading markings.

Whenever a change is made in the original classification or in the dates of downgrading or declassification of any classified information, it shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action, and the identity of the person taking the action. Earlier classification markings shall be cancelled when practicable (4-102).

§ 2.17 Systematic Review for Declassification.

(a) *Systematic review guidelines.* (1) *U.S. originated information.* Systematic review guidelines shall be kept current through review at least every 2 years, unless earlier review for revision is requested by the Archivist of the United States (3-402).

(2) *Foreign government information.* No later than November 30, 1979, the Department will develop systematic review guidelines for 30 year old foreign government information. These guidelines will be developed in consultation with the Archivist of the United States and in accordance with the provisions of Section 3-304 of the Order. These guidelines shall be kept current through review by the Secretary at least once every 2 years, unless earlier review for revision is requested by the Archivist of the United States. A copy of these guidelines and any revisions thereto shall be furnished to the Information Security Oversight Office. The Department of State will, upon request, provide advice and such assistance as is necessary to effect foreign government coordination of the guidelines (3-404).

(b) *Systematic review procedures—*(1) *Scheduling for systematic review.* Classified nonpermanent records that are scheduled to be retained for more than 20 years need not be systematically reviewed, but shall be reviewed for declassification upon request. All classified Treasury records 20 years old or older, whether held in storage areas by Treasury or in Federal records centers, shall be surveyed to identify those that require scheduling for future disposition. Such scheduling shall be accomplished before December 1, 1980 (3-401).

(2) *Extending classification after review—*(i) *Foreign government infor-*

mation. The Secretary may extend the classification of foreign government information beyond 30 years, but only in accordance with Sections 3-3 and 3-404 of the Order. This authority may not be delegated. When classification is extended beyond 30 years, a date no more than 10 years later shall be set for declassification or for the next review. Subsequent reviews for declassification shall be set at no more than 10 year intervals (3-404). The burden of proof is on the originating office in the Office of the Secretary or the bureau to show that continued classification is warranted within the terms of the Order, the Directive and these regulations.

(ii) *Notification of addressees.* When classified information is downgraded or declassified in a manner other than originally specified, whether scheduled or exempted, or is upgraded, or is subject to a change in exemption status, the classifier or the custodian of the records shall, to the extent practicable, promptly notify all addressees to whom the information was originally officially transmitted. The recipients of this notification shall notify addressees to whom in turn they have transmitted the classified information.

(iii) *Waivers of further review.* The Secretary may request from the Director of the Information Security Oversight Office a waiver of the 10 year review requirement for both U.S. originated and foreign government information. Such requests shall include a personal certification by the Secretary that the classified information for which the waiver is sought has been systematically reviewed as required, and that a definitive date for declassification could not be determined. Waivers should not be requested unless the results of the review have established an identifiable need to continue classification for a period in excess of 20 additional years. Each request shall include a recommended date or event for subsequent review or automatic declassification (3-401).

(3) *Assistance to the Archivist—*(i) The Secretary shall designate experienced personnel to assist the Archivist of the United States in the systematic review of 20 year old U.S. originated information and 30 year old foreign government information accessioned into the National Archives of the United States. Such personnel shall:

(A) Provide guidance and assistance to National Archives employees in identifying and separating documents and specific categories of information within documents that are deemed to require continued classification; and

(B) submit to the Secretary recommendations for continued classification that identify documents or specif-

ic categories of information so separated.

(ii) The Secretary shall then make the determinations personally and in writing required under Section 3-401 of the Order as to which documents or categories of information require continued protection. The Secretary shall inform the Archivist of the United States of this determination (3-4).

(4) *Special procedures.* Special procedures for systematic review and declassification of classified cryptologic information and classified information concerning the identities of clandestine human agents promulgated in accordance with the provisions of Section 3-403 of the Order shall be binding on the Department of the Treasury.

(5) *Foreign relations series.* In order to permit the editors of Foreign Relations of the United States to meet the mandated goal of publishing 20 years after the event, the Secretary shall assist the editors in the Department of State by facilitating access to appropriate classified material in their custody and by expediting declassification review of items from their files selected for publication (3-4).

§ 2.18 Procedures for mandatory declassification review.

(a) *U.S. originated information—*(1) *Action on an initial request.* Requests for mandatory declassification review shall be directed to the Assistant Director (Physical Security), Office of Administrative Programs. Upon request for declassification, pursuant to Section 3-5 of the Order, the following procedures shall apply:

(i) The Assistant Director (Physical Security), Office of Administrative Programs, shall acknowledge receipt of the request.

(ii) Whenever a request does not reasonably describe the information sought, the requestor shall be notified that unless additional information is provided or the scope of the request is narrowed, no further action will be undertaken (3-501).

(iii) The Assistant Director (Physical Security), Office of Administrative Programs, shall determine the appropriate office to take action on the request and shall forward the request to that office.

(2) *Information in the custody of and under the exclusive declassification authority of the Department.* The appropriate declassification official in the action office having custody of the information shall determine whether, under the declassification provisions of Section 3-3 of the Order, the requested information may be declassified and, if so, shall make such information available to the requestor, unless withholding is otherwise warranted under applicable law. If the in-

formation may not be released in whole or in part, the requestor shall be given a brief statement as to the reasons for denial, a notice of the right to appeal the determination to the Departmental Committee on National Security and a notice that such an appeal must be filed within 60 days in order to be considered (3-501).

(3) *Information classified by agencies other than the Department of the Treasury.* When any unit of the Department of the Treasury receives a request for information in its custody that was classified by another agency, the Assistant Director (Physical Security), Office of Administrative Programs, shall be responsible for forwarding the request to the appropriate agency for review, together with a copy of the document containing the information requested, where practicable, and with its recommendation to withhold any of the information where appropriate. Unless the agency that classified the information objects on grounds that its association with the information requires protection, the unit that received the request shall also notify the requestor of the referral. After the agency that classified the information completes its review (in coordination with other agencies that have a direct interest in the subject matter), a response shall be sent to the requestor in accordance with the procedures described above (3-501).

(4) *Information classified by Treasury requested from other agencies.* When another agency forwards to Treasury a request for information in that agency's custody that has been classified by Treasury, the Assistant Director (Physical Security), Office of Administrative Programs, shall: (i) advise the other agency as to whether they can notify the requestor of the referral; (ii) review the classified information in coordination with other agencies that have a direct interest in the subject matter; and (iii) respond to the requestor in accordance with the procedures in § 2.18(a)(2). If requested, Treasury's determination shall be communicated to the referring agency (3-501).

(5) *Action on appeal.* Appeals of denials of a request for declassification shall be referred to the Departmental Committee on National Security Information. Within 30 days of receipt of the appeal, the Departmental Committee on National Security Information shall determine whether continued classification is required in whole or in part, notify the requestor of the determination, and make available any information that is declassified and otherwise releasable. If continued classification is required under the provisions of Section 3-3 of the Order, the requestor shall be notified of the rea-

sons thereof. If requested, the Department of the Treasury shall also communicate the appeal determination to any referring agency (3-5 and 5-404(c)).

(6) *Fees.* If the request requires the rendering of services for which fair and equitable fees may be charged pursuant to Title 5 of the Independent Offices Appropriation Act, 65 Stat. 290, 31 U.S.C. 483a (1976), such fees may be imposed at the discretion of the Department's service rendering unit (3-501).

(b) *Foreign Government information.* Except as provided hereinafter, requests for mandatory review for the declassification of classified documents that contain foreign government information shall be processed and acted upon in accordance with the provisions of § 2.18(a). If the Department's unit receiving the request is also the unit that initially received or classified the foreign government information, it shall determine whether the foreign government information in the document may be declassified and released after consulting with other agencies that have subject matter interest. If the Department's unit receiving the request is not the unit that received or classified the foreign government information, it shall refer the request to the appropriate agency, for action as described above, including its recommendation to withhold any of the information where appropriate. In those cases where agency policy or guidelines do not apply, consultation with the foreign originator through appropriate channels may be advisable prior to final action on the request (3-5).

Subpart D—Safeguarding

§ 2.19 General.

Information classified pursuant to the Order or prior Orders shall be afforded a level of protection against unauthorized disclosure commensurate with its level of classification (4-1).

§ 2.20 General restriction on access.

(a) *Determination of need-to-know.* Classified information shall be made available to a person only when the possessor of the classified information establishes in each instance, except as provided in Section 4-3 of the Order, that access is essential to the accomplishment of official Government duties or contractual obligations (4-101).

(b) *Determination of trustworthiness.* A person is eligible for access to classified information only after a showing of trustworthiness as determined by an appropriate agency head based upon appropriate investigations in accordance with applicable standards and criteria (4-101).

§ 2.21 Access by historical researchers, former Presidential appointees and employees of Federal Reserve Banks.

(a) Access may be obtained by (1) written agreements from requestors to safeguard the information to which they are given access as permitted by the Order, the Directive and these regulations, and (2) written consent to the review of their notes and manuscripts for the purpose of determining that no classified information is contained therein. A determination of trustworthiness is a precondition to a requestor's access. If the access requested by historical researchers and former Presidential appointees requires the rendering of services for which fair and equitable fees may be charged pursuant to Title 5 of the Independent Offices Appropriations Act, 65 Stat. 290, 31 U.S.C. 483a (1976), the requestor shall be so notified and the fees may be imposed (4-3).

(b) Officials and employees of Federal Reserve Banks may be granted access to classified national security information by the Under Secretary (Monetary Affairs), or his designee when:

(1) The information is classified by a Treasury official or consent for dissemination to the Federal Reserve Bank has been obtained from the originating department.

(2) The Federal Reserve Bank officials or employees need to have knowledge of such information in connection with activities approved by the Under Secretary (Monetary Affairs), or his designee, as being in the interests of the United States; and

(3) The Federal Reserve Bank officials and employees are cleared by the Department of the Treasury under the procedures and standards applicable to Treasury officials and employees.

(4) The Under Secretary (Monetary Affairs), or his designee, shall also be responsible for adjusting or withdrawing the security clearance of any Federal Reserve Bank official or employee who no longer needs access to classified national security information at a particular level in connection with the official performance of duties.

§ 2.22 Dissemination.

Except as otherwise provided by Section 102 of the National Security Act of 1947, 61 Stat. 495, 50 U.S.C. 403 (1970 and Suppl V 1975), classified information originating in another agency may not be disseminated outside the Department without the consent of the originating agency (4-403).

§ 2.23 Accountability procedures.

(a) *Top Secret Control Officers.* Each Treasury bureau and the Office of the Secretary shall designate a Top Secret Control Officer. Top Secret Control

Officers so designated shall receive, maintain current accountability records of, and dispatch Top Secret information, and shall also conduct an annual physical inventory of all Top Secret information. Top Secret Control Officers shall conduct the required physical inventory in the presence of a disinterested individual and shall complete the same by the first day of May. Any Top Secret document unaccounted for must be reported to the Assistant Secretary (Administration). Top Secret Control Officers shall conduct periodic reviews of Top Secret documents within their control to insure that those Top Secret documents are downgraded or declassified as required.

(b) *Control of Top Secret Information.* (1) A Treasury Department Form TD F 71-01.7 (Top Secret Document Record) shall be attached to the first page or cover of the original and each copy of Top Secret information. The Top Secret Document Record shall be completed by the Top Secret Control Officer, shall identify the Top Secret information attached, and shall serve as a permanent record of the information. All persons, including stenographic and clerical personnel, having access to the information attached to the Top Secret Document Record must sign and date the Treasury Form TD F 71-01.7 prior to accepting responsibility for its custody. The Treasury Form TD F 71-01.7 shall indicate those individuals to whom only oral disclosure is made. The Top Secret Document Record shall remain attached to the Top Secret information until it is either transferred to another U.S. Government agency, downgraded, declassified or destroyed. Whenever any one of these actions is taken, the Top Secret Control Officer shall record the action on the Top Secret Document Record and retain it for a period of three years at which time it may be destroyed.

(2) Top Secret documents shall be sequentially numbered in a calendar year series by Top Secret Control Officers as received by them, and the number shall be posted to the Top Secret document, Treasury Form TD F 71-01.7 and Treasury Form TD F 71-01.5 Revised (Classified Document Accountability Record).

(3) Top Secret Control Officers shall maintain current records of persons within their respective office or bureau who are cleared for access to Top Secret information.

(c) *Waiver.* The Director of the Information Security Oversight Office may grant a waiver with respect to the requirement of an annual inventory for storage systems involving large volumes of information, if security measures with respect to such storage sys-

tems are adequate to prevent access by unauthorized persons (4-103).

(d) *Accountability of classified information.* Treasury Department Form TD F 71-01.5 (Classified Document Accountability Record) shall be the exclusive classified document accountability record for use within the Department of the Treasury. No other logs or records shall be required except for the use of Treasury Form TD F 71-01.7 for Top Secret information. Form TD F 71-01.5 shall be used for single or multiple document receipting, internal and external routing, and as a certificate of destruction. The inclusion of classified information on Form TD F 71-01.5 is prohibited. In the event the subject title is classified, a recognizable short title shall be used, e.g., first letter of each letter word in the subject title. Several items may be transmitted to the same addressee under the cover of one Form TD F 71-01.5. When the original and/or copies of the document are destroyed, the destruction certificate section of the form shall be completed to include the date and method of destruction and signed by the individuals accomplishing the destruction. Form TD F 71-01.5 may be destroyed three years after the date of the final disposition of the document.

(1) *Top Secret information.* Top Secret information shall be subject to a continuous receipt system regardless of how brief the period of custody. Treasury Form TD F 71-01.5 shall be used for this purpose. Top Secret accountability records shall be maintained by Top Secret Control Officers separately from the accountability records of other classified information.

(2) *Secret information.* Receipt on Treasury Form TD F 71-01.5 shall be required for transmission of Secret information between bureaus, offices and separate agencies. Responsible officials shall determine administrative procedures required for the internal control within the respective offices or bureaus. The volume of classified information handled and personnel resources available must be considered in determining the practical balance between security measures imposed and the attainment of operating efficiency.

(3) *Confidential information.* Receipts for Confidential information shall not be required unless the originator clearly indicates that receipting is necessary.

(e) *Restraint on reproduction.* Documents or portions of documents containing Top Secret information shall not be reproduced without the consent of the originating office and any reproduction so authorized must be appropriately controlled. The authority for reproduction shall be noted on the copy from which the reproduction is

made. The office reproducing Top Secret information shall place this information under top Secret control and shall maintain appropriate records to reflect the number of copies reproduced and shall observe all other requirements concerning the control of the distribution of such copies. The reproduction of Secret information shall be placed under the same control as the parent document. Confidential documents may be reproduced without permission of the originating official, office or department. However, all classified information shall be reproduced sparingly and any stated prohibition against reproduction shall be strictly adhered to. The number of copies of documents containing classified information shall be kept to the absolute minimum required to meet operational needs in order to decrease the risk of compromise, administrative burden and to reduce storage costs.

§ 2.24 Storage.

Classified information shall be stored only in facilities or under conditions adequate to prevent unauthorized persons from gaining access to it (4-103).

(a) *Top Secret.* Top Secret information shall be stored in a GSA-approved, safe-type, steel file cabinet having a built-in, three-position, changeable dial-type combination lock or within an approved vault, or vault-type room, or in other storage facility that meets the standards for Top Secret established under the provisions of § 2.24(c). In addition, the designated security officer of each bureau or the Office of the Secretary shall prescribe such additional supplementary controls as are deemed appropriate to restrict unauthorized access to areas where such information is stored (4-103).

(b) *Secret and Confidential.* Secret and Confidential information shall be stored in a manner and under the conditions prescribed for Top Secret information, or in a container or vault that meets the standards for Secret or Confidential, established pursuant to the provisions of § 2.24 (c) and (d) (4-103).

(c) *Standards for security equipment.* The Directive requires the General Services Administration, in coordination with the Department, to establish and publish uniform standards, specifications, and supply schedules for containers, vaults, alarm systems, and associated security devices suitable for the storage and protection of all categories of classified information. The Department may, however, establish more stringent standards for its own use. Whenever new security equipment is procured, it shall be in conformance with the standards and specifications referred to above and

shall, to the maximum extent practicable, be of the type designated on the Federal Supply Schedule, General Services Administration (4-103).

(d) *Exception to standards for security equipment*—(1) Secret and Confidential information may also be stored in a steel filing cabinet having a built-in, three-position, dial-type, changeable combination lock, or a steel filing cabinet equipped with a steel lock bar, provided it is secured by a three-position, changeable, combination padlock approved by GSA for the purpose. The storage of Secret information in the steel filing cabinets described above requires the use of such supplementary controls as the designated security officer of each bureau or the Office of the Secretary deems necessary to achieve the degree of protection warranted by the sensitivity of the information involved (4-103).

(2) For protection of bulky Secret and Confidential material (for example, weaponry containing classified components) in magazines, strong rooms, or closed areas, access openings may be secured by changeable combination or key-operated, high-security padlocks approved by GSA. When key-operated padlocks are used, keys shall be controlled in accordance with § 2.24(f) (4-103).

(e) *Combinations*—(1) *Equipment in service*. Combinations to dial-type locks shall be changed only by persons having appropriate security clearance, and shall be changed whenever such equipment is placed in use, whenever a person knowing the combination no longer requires access to the combination, whenever a combination has been subjected to possible compromise, whenever the equipment is taken out of service, and at least once every year. Knowledge of combinations protecting classified information shall be limited to the minimum number of persons necessary for operating purposes. Records of combinations shall be classified no lower than the highest level of classified information to be stored in the security equipment concerned (4-103).

(2) *Safe combination records*. Combinations to equipment containing classified information shall be recorded on Treasury Form No. 4032 (Security Container Information). Such forms shall be completed in their entirety. Part 1 of the Form shall be posted on the interior of the top or locking drawer of the safekeeping equipment concerned. The names, addresses and home telephone numbers of personnel responsible for the combination and the classified information stored therein must be posted on Part 1 of the Form. Part II shall be properly completed, inserted in the envelope (Part III) provided and forwarded to the designated central repository for

safe combinations. Parts II and III shall show the appropriate classification marking.

(3) *Safe or cabinet security record*. Each piece of equipment used for the storage of classified information will have attached conspicuously to the outside a General Services Administration Optional Form 62 (Safe or Cabinet Security Record) on which an authorized employee will record the time and date each time they unlock or lock the security equipment, followed by their initials. In addition, at the close of each working day or when a security container is locked at times other than normal duty hours, the person locking the security container will be required to check it to insure that it is locked, and will record the time and date the security container was checked followed by their initials. The checking procedure stated above applies for each normal working day regardless of whether or not the security container was opened on that particular day. A security container will not be left unattended until it has been locked by an authorized person and checked by a second person. Additional safe security requirements are:

(i) Reversible "Open-Closed" signs, available through normal supply channels, shall be used as additional reminders on each security container used for the storage of classified information.

(ii) The tops of security containers shall be kept free of all extraneous matter.

(4) *Equipment out of service*. When security equipment having a built-in combination lock is taken out of service, the lock shall be reset to the standard combination 50-25-50. Combination padlocks shall be reset to the standard combination 10-20-30 (4-103).

(5) *Classified document cover sheets*. In order to alert personnel to the fact that a document or folder is classified and to protect it from unauthorized scrutiny, cover sheets, available through normal supply channels, will be used to cover classified documents when in use. Classified document cover sheets will be removed before classified information is filed. Classified document cover sheets will be removed from classified documents prior to transmission except when the transmission is made internally within a headquarters by courier, messenger or by personal contact.

(6) *Report of loss or compromise*. Any employee of the Department of the Treasury who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances to the appropriate bureau head or his designee who shall take appropriate action forthwith. In turn, the originating de-

partment and any other interested department shall be notified about such loss or possible compromise.

(7) *Inquiry*. If the loss or possible compromise occurs in any Treasury bureau, or the Office of the Secretary, the Assistant Secretary (Administration) shall be notified. He shall then direct an immediate inquiry to be conducted for the purpose of taking corrective measures and assessing damages. Based on the results of the inquiry, recommendations shall be made to the Assistant Secretary (Administration) as to the appropriate administrative, disciplinary, or legal action to be taken (4-103).

(f) *Keys*. The Office of the Secretary and all respective Treasury bureaus shall each individually establish administrative procedures for the control and accountability of keys and locks whenever key-operated, high-security padlocks are utilized. The level of protection provided such keys shall be equivalent to that afforded the classified information being protected. Under no circumstances may keys be removed from the premises. They shall be stored in a secure container (4-103).

(g) *Responsibilities of custodians*. Persons entrusted with classified information shall be responsible for providing protection and accountability for such information at all times and for locking classified information in approved security equipment whenever it is not in use or under the direct supervision of authorized persons. Custodians shall follow procedures that insure unauthorized persons do not gain access to classified information (4-103).

(h) *Inspections*. Individuals charged with the custody of classified information shall conduct the necessary inspections within their areas to insure adherence to procedural safeguards prescribed to protect classified information. Security officers shall insure that periodic inspections are made to determine whether procedural safeguards prescribed by these regulations are in effect at all times (4-103).

§ 2.25 Transmittal.

(a) *General*. Classified information shall be transmitted between Treasury bureaus and buildings and outside the Department only in accordance with the requirements of these regulations. Classified information shall be enclosed in opaque inner and outer covers before transmitting. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and addresses of both sender and addressee. The outer cover shall be sealed and addressed with no identification of the classification of its contents. A receipt shall be attached to or enclosed in the inner

cover. Confidential information shall require a receipt only if the sender deems it necessary. The receipt shall identify the sender, addressee, and the document, but shall contain no classified information. The receipt shall be immediately signed by the recipient and returned to the sender. Within the Main Treasury Building and within each separate bureau building, such information may be transmitted between offices by direct contact of the officials concerned in a single sealed opaque envelope with no security classification category being shown on the outside of the envelope. Classified information shall never be delivered to unoccupied rooms or offices (4-103).

(b) *Transmittal of Top Secret.* The transmittal of Top Secret information shall be by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system specially created for that purpose, or over authorized secure communications circuits (4-103).

(c) *Transmittal of Secret.* The transmittal of Secret information shall be effected in the following manner:

(1) *The 50 States, District of Columbia, and Puerto Rico.* Secret information may be transmitted within and between the 50 States, District of Columbia, and Puerto Rico by one of the means authorized for Top Secret information, by the U.S. Postal Service registered mail, or by protective services provided by U.S. air or surface commercial carriers under such conditions as may be prescribed by the Secretary (4-103).

(2) *Canadian Government Installations.* Secret information may be transmitted to and between the United States Government and Canadian Government installations in the 50 States, the District of Columbia, and Canada by United States and Canadian registered mail with registered mail receipt (4-103).

(3) *Other areas.* Secret information may be transmitted from, to, or within areas other than those specified in (1) and (2) above by one of the means established for Top Secret information, or by U.S. registered mail through Army, Navy, or Air Force Postal Service Facilities provided that the information does not at any time pass out of U.S. citizen control and does not pass through a foreign postal system. Transmittal outside such areas may also be accomplished under escort of appropriately cleared personnel aboard U.S. Government and U.S. Government contract vehicles or aircraft, ships of the United States Navy, civil service manned U.S. Naval ships, and ships of U.S. Registry. Operators of vehicles, captains or masters of vessels, and pilots of aircraft who are U.S. citizens and who are appropriately

cleared may be designated as escorts (4-103).

(d) *Transmittal of Confidential information.* Confidential information shall be transmitted within and between the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories or possessions by one of the means established for higher classifications, or by U.S. Postal Service certified, first class, or express mail service. Outside these areas, Confidential information shall be transmitted only as is authorized for higher classifications (4-103).

(e) *Transmission by personnel in travel status.* For personnel in travel status, see Treasury Directive TD 71-10.A.

§ 2.26 Telecommunications transmissions.

Classified information shall not be communicated by telecommunications transmission, except as may be authorized by these regulations with respect to the transmission of classified information over authorized secure communications circuits or systems.

§ 2.27 Destruction.

(a) *Methods of destruction.* When information classified under the authority of the Order is to be destroyed, destruction shall be by burning, mulching, or shredding in the presence of an individual or individuals specifically designated by the appropriate bureau head.

(b) *Approval of use of mulching and shredding machines.* Prior to a bureau obtaining a mulching or shredding machine, the Office of Administrative Programs, Assistant Director (Physical Security) shall approve the use of such a machine.

(c) *Destruction by burning.* Any classified information to be destroyed by burning shall be torn and placed in containers designated as burnbags and shall be clearly and distinctly labeled "Burn." Burnbags awaiting destruction shall be protected by security safeguards commensurate with the classification or control designation of the information involved.

(d) *Records of destruction.* Each bureau head shall insure that appropriate accountability records are maintained for his bureau to reflect the destruction of classified national security information.

(e) *Destruction of nonrecord information.* Nonrecord classified information such as extra copies and duplicates, including shorthand notes, preliminary drafts, used carbon paper and other material of similar temporary nature, shall also be destroyed by burning, mulching, or shredding as soon as it has served its purpose, but no records of such destruction need be maintained.

Subpart E—Implementation and Review

§ 2.28 Departmental Committee on National Security.

There is hereby established a Departmental Committee on National Security Information whose membership shall be comprised of the Assistant Secretary (Administration) who shall serve as chairman and such other officials as shall be designated by a Treasury Department Order. The functions of the Committee include:

(a) The review of all appeals under these regulations from decisions not to declassify documents, except with respect to documents over which the Secretary has extended their classification to more than 20 years;

(b) The review of suggestions and complaints regarding the administration of these regulations;

(c) The responsibility for establishing the Department's policies with respect to the enforcement of the Order, the Directive and these regulations.

§ 2.29 Departmental Administration.

(a) The Assistant Secretary (Administration) shall enforce the Order, the Directive and these regulations, and establish, coordinate and maintain active training, orientation and inspection programs for employees concerned with classified information.

(b) The Assistant Secretary (Administration) shall establish and maintain a Data Index System control file for all national security information originally classified within the Department.

§ 2.30 Bureau administration.

Each bureau head and the Office of the Secretary shall designate a security officer and an official to coordinate and supervise the activities applicable to that bureau to maintain the programs of training, orientation, and inspection established by the Office of Administrative Programs, Assistant Director (Physical Security) and to carry out related activities of the Order.

§ 2.31 Briefing of employees.

All new employees concerned with classified information shall be afforded a security briefing regarding the Order, the Directive and these regulations. Employees concerned with classified information pertaining to intelligence sources, methods, operations, or plans shall be required to read and sign a Security Agreement. All new employees afforded a security briefing shall be provided with copies of applicable laws and pertinent security regulations setting forth the procedures for the protection and disclosure of classified information. All employees

concerned with classified information shall receive periodic reorientation briefings during their employment which are designed to impress upon them their responsibility for exercising care and vigilance in complying with the provisions of the Order, the Directive and implementing regulations.

§ 2.32 Debriefing of employees.

Any person possessing a security clearance, at any level of employment and without exception, when terminating employment or contemplating temporary separation for a sixty-day period or more, shall be debriefed concerning their continued responsibility to safeguard classified information, and reminded that civil and criminal penalties (including civil service and Departmental disciplinary procedures) are applicable to the violation of these regulations.

§ 2.33 Applicability.

(a) Any individual, at any level of employment, determined to have been responsible for any unauthorized release or disclosure of national security information shall be notified that his/her action is in violation of the Order, the implementing Information Security Oversight Office Directive, or these regulations. In addition, he/she shall be subject to prompt and stringent action including, as appropriate in the particular case, a warning notice, formal reprimand, suspension without pay, or dismissal, in accordance with applicable personnel rules, regulations and procedures. Where a violation of criminal statutes may be involved, any such case shall be promptly referred to the Department of Justice.

(b) Repeated abuse of the classification process, either by unnecessary or over-classification, or repeated failure, neglect or disregard of established requirements for safeguarding classified information by any officer or employee shall be grounds for appropriate adverse or disciplinary action. Such action may include a warning notice, formal administrative reprimand, suspension without pay, or dismissal, as appropriate in the particular case, in accordance with applicable personnel rules, regulations and procedures.

§ 2.34 Disciplinary action.

After an affirmative adjudication of a security violation and as the occasion demands, reports of accountable security violations may be placed in the employee's official personnel folder and security file. The security official of the bureau or office concerned shall recommend to the respective management official or bureau head that disciplinary action be taken when such action is indicated. Howev-

er, should circumstances warrant, the Department may take action under provisions of these regulations, the Order, any implementing Information Security Oversight Office Directives, Executive Order 10450, as amended, or any superseding applicable Executive Order.

§ 2.35 Challenges to classification.

Holders of classified information are encouraged to challenge classification in cases where there is reasonable cause to believe that information is classified unnecessarily, improperly, or for an inappropriate period of time. Such challenges or appeals relating thereto shall be acted on within 30 days of receipt and the challenger notified of the results. When requested, anonymity of the challenger shall be preserved (5-404(d)).

Subpart F—General Provisions

§ 2.36 Notification.

Notification of unscheduled changes in classification or changes in duration of classification may be by general rather than specific notice (4-102).

§ 2.37 Posted notice.

If prompt remarking of large quantities of information would be unduly burdensome, the custodian may attach a change of classification notice to the storage unit in lieu of the marking action otherwise required. Each notice shall indicate the change, the authority for the action, the date of the action, and the storage units to which it applies. Items permanently withdrawn from such storage units shall be marked promptly in accordance with the marking provisions herein. However, when information subject to a posted downgrading, upgrading, or declassification notice is withdrawn from one storage unit solely for transfer to another, or a storage unit containing such information is transferred from one place to another, the transfer may be made without marking if the notice is attached to or remains with each shipment (4-102).

Effective date: December 1, 1978.

Dated: December 22, 1978.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc. 78-36199 Filed 12-27-78; 8:45 am]

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD,
DEPARTMENT OF TRANSPORTATION

[CGD 77-41]

PART 110—ANCHORAGE
REGULATIONS

Anchorage Grounds San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, San Joaquin River, and connecting waters, California

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment will change the designation of Anchorage No. 8 [33 CFR 110.224(a)(6)(i)] from a "Temporary" anchorage to a "General" anchorage and delete the reference to "the Explosive Anchorage 13 Buoy EX" in Explosive Anchorage No. 13 [33 CFR 110.224(a)(10)(i)]. Restricted use of Anchorage No. 8 is no longer desired. The purpose for Explosive Anchorage 13 Buoy EX is obsolete. These changes to the regulations will allow more efficient use of Anchorage No. 8 and provide safer operation in Anchorage No. 13.

DATES: This amendment is effective December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander Howard E. Snow, Office of Marine Environment and Systems (G-WLE/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202) 426-1934.

SUPPLEMENTARY INFORMATION: This amendment deletes reference to a buoy which will be removed, and thus is a purely editorial change. The other part of this amendment removes restrictions on anchoring from an anchorage where formerly only short term anchoring was permitted and redesignates it as a general anchorage. It is not anticipated that any substantive public comment would be received. Therefore, publication as a notice is unnecessary and contrary to the public interest. The regulation may be made effective in less than 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553).

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Lieutenant G. S. Karavi-

tis, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF REGULATIONS

This proposal will eliminate the present restrictions of intentions and time limit on vessels using Anchorage No. 8 by changing the designation of the anchorage from a "Temporary" to a "General" anchorage. The original rule contained these restrictions as requested by the U.S. Navy Pilots operating in the area. The Commandant of the Twelfth Naval District has indicated that the need for these restrictions no longer exists. Designating Anchorage No. 8 as a general anchorage will allow more efficient use of the anchorage.

It has been determined by the Bar and Inland Pilots and Commander, Twelfth Coast Guard District that Buoy EX which marks the center of Explosive Anchorage No. 13 serves no current useful purpose to the mariner and is now considered a potential hazard to navigation for the Larkspur Ferry on its run up to Corte Madera Creek. Present users of this anchorage have adequate personnel and navigation equipment to ensure, without the aid of a buoy, that they are positioned within the limits of the anchorage. The San Francisco Vessel Traffic Service (VTS) further assures that any vessel using the anchorage is properly located. Elimination of Buoy EX will increase the safety of navigation in this area.

An Environmental Assessment was completed in October 1978 which determined that there would be no impact on the quality of the human environment.

This regulation has been reviewed under DOT Notice 78-1 "Improving Government Regulations" (43 FR 4582) and a Final Evaluation has been prepared and is available for public inspection at the Project Manager and Commander, Twelfth Coast Guard District addresses indicated above.

In consideration of the foregoing Part 110 of Title 33 is amended as follows:

1. By amending § 110.224(a)(6) to read as follows:

§ 110.224 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, San Joaquin River, and connecting waters, California

(a) * * *

(6) Anchorage No. 8, General Anchorage. (1) In San Francisco Bay bounded by the westerly shore of the Naval Air Station, Alameda, and the following lines: Beginning at Oakland Inner Harbor Light 2 at latitude 37°47'52", longitude 122°19'54"; thence west northwesterly to latitude 37°48'03", longitude 122°20'57.5"; thence south southwesterly to latitude

37°47'56", longitude 122°21'22.5"; thence southwesterly to latitude 37°47'26", longitude 122°21'41"; thence south southeasterly to latitude 37°47'00", longitude 122°21'30"; then southeasterly to the Alameda Naval Air Station Channel Lighted Bell Buoy 1 at latitude 37°46'38", longitude 122°20'24"; thence easterly to latitude 37°46'37", longitude 122°19'56"; thence northerly to the shore of the Naval Air Station, Alameda, at latitude 37°46'57", longitude 122°19'52.5".

(ii)(a) No vessel anchored in this anchorage may project into the San Francisco Bay South Channel.

2. By amending § 110.224(a)(10) to read as follows:

§ 110.224 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, San Joaquin River, and connecting waters, California.

(a) * * *

(10) Anchorage No. 13, Explosives Anchorage (Temporary General).

(i) In San Francisco Bay east of the Tiburon Peninsula a circular area having a radius of 333 yards centered at latitude 37°55'26", longitude 122°27'27".

(Sec. 7, 38 Stat. 1053, as amended, (33 U.S.C. 471); Sec. 6(g)(1), 80 Stat. 940, (49 U.S.C. 1655(g)(1)); 49 CFR 1.46 (c)(1)).

Dated: December 1, 1978.

J. B. HAYES,
Admiral,

U.S. Coast Guard Commandant.

[FR Doc. 78-36134 Filed 12-27-78; 8:45 am]

[4910-14-M]

[ICGD 77-217]

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

Editorial Corrections

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These amendments update the Inland Waterways Navigation Regulations by eliminating the regulations for the Coast Guard Seaplane Operating Area in Biscayne Bay, Florida, since this area is no longer used; and by correcting the identity of the Captain of the Port having jurisdiction in Tongass Narrows, Alaska, since this was incorrectly listed in the original publication of the regulations.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Lieutenant (Junior Grade) George W. Molessa, Jr., Office of Marine Environment and Systems (G-WLE-4/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202) 426-4958.

SUPPLEMENTARY INFORMATION:

Since the amendments in this document are simply editorial or administrative, the Coast Guard finds for good cause under 5 U.S.C. 553 (b) and (d) that notice and public procedure are unnecessary and that these amendments may be made effective in less than 30 days after publication in the FEDERAL REGISTER. These amendments have been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis and Review of Regulations" (43 FR 9582, March 8, 1978). A final evaluation has been prepared, and has been included in the public docket.

DRAFTING INFORMATION

The principal persons involved in the drafting of this document are: Lieutenant (Junior Grade) George W. Molessa, Jr., Project Manager, Office of Marine Environment and Systems, and Mr. Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

Accordingly, Part 162 of Title 33 of the Code of Federal Regulations is amended as follows:

1. By deleting § 162.70.

2. By revising § 162.240(d) to read as follows:

§ 162.240 Tongass Narrows, Alaska; navigation.

(d) No vessel shall moor or anchor to any structure of the United States other than mooring piers, wharves, and floats without the consent of the Captain of the Port, Southeast Alaska. The office of the Captain of the Port, Southeast Alaska, is located in Juneau, Alaska.

(33 U.S.C. 1231; 49 CFR 1.46(n)(4).)

Dated: December 21, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-36135 Filed 12-27-78; 8:45 am]

[8320-01-M]

Title 38—Pensions, Bonuses and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 36—LOAN GUARANTY

Loans for Conventionally Built Homes

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is amending its regulations applicable to the guaranteed and direct loan programs for conventionally built homes. These amendments increase the loan guaranty entitlement, clarify the eligibility requirements for veterans who served in more than one period of service, reflect VA compliance with the Equal Credit Opportunity Act, and make minor editorial changes. The amendments are for the primary purpose of implementing the Veterans' Housing Benefits Act of 1978.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Administration, Washington, D.C. 20420, 202-389-3042.

SUPPLEMENTARY INFORMATION: The Veterans' Housing Benefits Act of 1978, Pub. L. 95-476 (92 Stat. 1497) revised chapter 37 of title 38, United States Code, as it relates to both guaranteed and direct loans. The new law thus requires substantial modification of the § 36.4300 series of VA Regulations which govern guaranty of loans made for the purpose of purchasing or improving a conventionally built home, and the § 36.4500 series of VA Regulations which govern direct loans made by the VA for the same purpose.

The Administrator is now authorized to guarantee 60 percent of the principal amount of a home loan not to exceed \$25,000. Previously, guaranty for home loans had been limited to \$17,500. The amendments to §§ 36.4302 (a), (c), 36.4306(a), 36.4502, and 36.4503(a) implement this provision.

The Act also reduces the active duty service requirements for veterans of the Vietnam era. Any veteran who served 90 days or more on active duty, at least 1 day of which was during the period August 5, 1964, through May 7, 1975, is eligible for loan guaranty benefits. Previously, Vietnam era veterans were required to serve more than 180 days of continuous active duty to be eligible for home loan guaranty benefits. Loan guaranty eligibil-

ity requirements are stated in sections 1802, 1807, and 1818 of title 38, United States Code, and are not restated in the loan guaranty regulations. However, the statutory amendment deleting Vietnam eligibility from section 1818, title 38, United States Code, and inserting it into section 1802, title 38, United States Code, has required a clarifying amendment to § 36.4303(g) pertaining to veterans who served in more than one period of service.

The VA is amending § 36.4301(ii) to reflect the change in the definition of the term "discharge or release." This amendment was mandated by Public Law 95-126 (38 U.S.C. 101(18)).

Section 36.4509 is amended to reflect VA compliance with the Equal Credit Opportunity Act (Pub. L. 93-495, 88 Stat 1521; Pub. L. 94-239, 90 Stat 251).

Minor editorial changes have been made to §§ 36.4342(b) and 36.4520(b) to revise the titles of certain positions and to §§ 36.4302(i), 36.4303 (g) and (j), 36.4519(a), and 36.4520(c) to reflect the agency policy of using precise terms to denote gender. In addition, a minor editorial change has been made to § 36.4303(f) to delete reference to an obsolete procedure.

Compliance with the provisions of § 1.12 of this chapter which requires publication of proposed regulations prior to final adoption is waived in this instance. The substantive changes implement statutory mandates. Those changes not required by statute are editorial rather than substantive. Compliance with § 1.12 would serve little purpose and would not be in the public interest as it would delay implementation of a statute that liberalizes benefits.

The amendments are adopted under authority granted to the Administrator by sections 210(c) and 1803(c)(1) of title 38, United States Code.

Approved: December 20, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 36.4301, paragraph (ii) is revised to read as follows:

§ 36.4301 Definitions.

(ii) *Discharge or release.* For purposes of basic eligibility a person will be considered discharged or released if the veteran was issued a discharge certificate under conditions other than dishonorable (38 U.S.C. 1802(c)). The term "discharge or release" includes (1) retirement from the active military, naval, or air service, and (2) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlist-

ment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable. (38 U.S.C. 101(18))

2. In § 36.4302, paragraphs (a), (c) and (i) are revised to read as follows:

§ 36.4302 Computation of guaranties or insurance credits.

(a) In respect to a loan to a veteran made under 38 U.S.C. 1810 the guaranty may not exceed sixty (60) percent of the original principal amount or \$25,000, whichever is less. (38 U.S.C. 1803(a), 1810(c))

(c) Subject to the provisions of paragraph (g) of § 36.4303, the following formulas shall govern the ascertainment of the amount of the guaranty or insurance entitlement which remains available to an eligible veteran after prior use of entitlement: (1) If a veteran previously secured a nonrealty (business) loan, the amount of nonrealty entitlement used is doubled and subtracted from \$25,000. The sum remaining is the amount of available entitlement for use, except that entitlement for mobile home loan purposes may not exceed \$17,500.

(2) If a veteran previously secured a realty (home) loan, the amount of realty (home) loan entitlement used is subtracted from \$25,000. The sum remaining is the amount of available entitlement for use, except that entitlement for mobile home loan purposes may not exceed \$17,500.

(3) If a veteran previously secured a mobile home loan, the amount of entitlement used for mobile home loan purposes is subtracted from \$25,000. The sum remaining is the amount of available entitlement for home loan purposes only. To determine the amount of entitlement available for mobile home purposes, the amount of entitlement previously used for mobile home purposes is subtracted from \$17,500. The sum remaining is the amount of available entitlement for use for mobile loan purposes. (38 U.S.C. 1810(c), 1819(c)(4))

(i) The amount of guaranty entitlement, available and unused, of an eligible unmarried surviving spouse (whose eligibility does not result from his or her own service) is determinable in the same manner as in the case of any veteran, and any entitlement which the decedent (who was his or her spouse) used shall be disregarded. A certificate as to the eligibility of such surviving spouse, issued by the

Administrator, shall be a condition precedent to the guaranty or insurance of any loan made to a surviving spouse in such capacity. (38 U.S.C. 1801(a))

3. Section 36.4303 is amended as follows:

(a) By deleting the words "his receiving" and inserting "the veteran's receipt of" in paragraph (j)(4).

(b) By revising paragraphs (f) and (g) to read as follows:

§ 36.4303 Reporting requirements.

(f) Evidence of a guaranty will be issued by the Administrator by appropriate endorsement on the note or other instrument evidencing the obligation, or by a separate certificate at the option of the lender. Notice of credit to an insurance account will be given to the lender. Unused certificates of eligibility issued prior to March 1, 1946, are void. No certificate of commitment shall be issued and no loan shall be guaranteed or insured unless the lender, the veteran, and the loan are shown to be eligible; nor shall guaranty or insurance evidence be issued on any loan for the purchase or construction of residential property, or for the alteration, improvement or repair thereof, if the application of the veteran to a lender for such loan was made on or after September 15, 1956, unless the Administrator determines that there has been compliance by the veteran with the certification requirements of 38 U.S.C. 1804(c). (38 U.S.C. 1802(c), 1804(c))

(g) Subject to compliance with the regulations concerning guaranty or insurance of loans to veterans, the certificate of guaranty or the evidence of insurance credit will be issuable within the available entitlement of the veteran on the basis of the loan stated in the final loan report or certification of loan disbursement. The available entitlement of a veteran will be determined by the Administrator as of the date of receipt of an application for guaranty or insurance of a loan or of a loan report. Such date of receipt shall be the date the application or loan report is date stamped into the Veterans Administration. Eligibility derived from the most recent period of service.

(1) Shall cancel any unused entitlement derived from any earlier period of service, and

(2) Shall be reduced by the amount by which entitlement from service during any earlier period has been used to obtain a direct, guaranteed, or insured loan.

(i) On property which the veteran owns at the time of application, or

(ii) As to which the Administrator has incurred actual liability or loss, unless in the event of loss or the incur-

rence and payment of such liability by the Administrator the resulting indebtedness of the veteran to the United States has been paid in full.

Provided, That if the Administrator issues or has issued a certificate of commitment covering the loan described in the application for guaranty or insurance or in the loan report, the amount and percentage of guaranty or the amount of the insurance credit contemplated by the certificate of commitment shall not be subject to reduction if the loan has been or is closed on a date which is not later than the expiration date of the certificate of commitment, notwithstanding that the Administrator in the meantime and prior to the issuance of the evidence of guaranty or insurance shall have incurred actual liability or loss on a direct, guaranteed, or insured loan previously obtained by the borrower. For the purposes of this paragraph, the Administrator will be deemed to have incurred actual loss on a guaranteed or insured loan if the Administrator has paid a guaranty or insurance claim thereon and the veteran's resultant indebtedness to the Government has not been paid in full, and to have incurred actual liability on a guaranteed or insured loan if the Administrator is in receipt of a claim on the guaranty or insurance or is in receipt of a notice of default. In the case of a direct loan, the Administrator will be deemed to have incurred an actual loss if the loan is in default. A loan, the proceeds of which are to be disbursed progressively or at intervals, will be deemed to have been closed for the purposes of this paragraph if the loan has been completed in all respects excepting the actual "pay-out" of the entire loan proceeds. (38 U.S.C. 1802(a), 1810(c))

4. In § 36.4306, the introductory portion of paragraph (a) preceding subparagraph (1) is revised to read as follows:

§ 36.4306 Refinancing of mortgage or other lien indebtedness.

(a) Except as provided in paragraph (e) of this section any loan for the purpose of refinancing an existing mortgage loan or other indebtedness secured by a lien of record on a dwelling or farm residence owned and occupied by an eligible veteran as the veteran's home shall be submitted to the Administrator for prior approval. A loan for such purpose shall be eligible for guaranty in an amount not to exceed sixty (60) percent of the loan amount or \$25,000, whichever is less, provided that—(38 U.S.C. 1810(c))

5. In § 36.4342, paragraph (b) is revised to read as follows:

§ 36.4342 Delegation of authority.

(b) Designated positions:

Chief Benefits Director
Director, Loan Guaranty Service
Director, Medical and Regional Office Center
Director, VA Center
Director, Regional Office
Loan Guaranty Officer
Assistant Loan Guaranty Officer

The authority hereby delegated to employees of the positions designated in this paragraph may, with the approval of the Chief Benefits Director, be redelegated.

6. Section 36.4502 is revised to read as follows:

§ 36.4502 Use of guaranty entitlement.

The guaranty entitlement of the veteran obtaining a direct loan which is closed on or after October 1, 1978, shall be charged with an amount which bears the same ratio to \$25,000 as the amount of the loan bears to \$33,000. The charge against the entitlement of a veteran who obtained a direct loan which was closed prior to the aforesaid date, shall be the amount which would have been charged had the loan been closed subsequent to such date. (38 U.S.C. 1811(d)(2)(A))

7. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1978, shall not exceed an amount which bears the same ratio to \$33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to \$25,000. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Loans made by the Veterans Administration shall bear interest at the rate of 9½ percent per annum. (38 U.S.C. 1811(d)(1) and (2)(A))

8. Section 36.4509 is revised to read as follows:

§ 36.4509 Joint loans.

(a) No loan will be made unless an eligible veteran is the sole principal obligor, or such veteran and spouse or eligible veteran co-applicant are the principal obligors thereon, nor unless

such veteran alone, or together with a spouse or eligible veteran co-applicant, acquire the entire fee simple or other permissible estate in the realty for the acquisition of which the loan was obtained. Nothing in this section shall preclude other parties from becoming liable as comaker, endorser, guarantor, or surety.

(b) Notwithstanding that an applicant and spouse or other co-applicant are both eligible veterans and will be jointly and severally liable as borrowers, the original principal amount of the loan may not exceed the maximum permissible under § 36.4503(a). In any event the loan may not exceed \$33,000. (38 U.S.C. 1811(d)(2)(A) and (3))

9. In § 36.4519, paragraph (a) is revised to read as follows:

§ 36.4519 Eligible purposes and reasonable value requirements.

(a) A loan may be made only for the purpose hereinafter set forth in this paragraph, and the loan may not exceed the reasonable value of the property as established by the Veterans Administration:

(1) To purchase or construct a dwelling to be owned and occupied by the veteran as a home;

(2) To purchase a farm on which there is a farm residence to be occupied by the veteran as a home;

(3) To construct on land owned by the veteran a farm residence to be occupied by the veteran as a home;

(4) To repair, alter, or improve a farm residence or other dwelling owned and occupied by the veteran as his or her home;

Provided, The veteran certifies, in such form as the Administrator may prescribe, that he or she has paid in cash from his or her own resources on account of such purchase, construction, alteration, repair, or improvement a sum equal to the difference, if any, between the purchase price or cost of the property and its reasonable value.

10. In § 36.4520, paragraphs (b) and (c) are revised to read as follows:

§ 36.4520 Delegation of authority.

(b) Designated positions:
Chief Benefits Director
Director, Loan Guaranty Service
Director, Medical and Regional Office Center
Director, VA Center

Director, Regional Office
Loan Guaranty Officer
Assistant Loan Guaranty Officer

The authority hereby delegated to employees of the positions designated in this paragraph may, with the approval of the Chief Benefits Director, be re-delegated.

(c) Nothing in this section shall be construed to authorize any such employee to exercise the authority vested in the Administrator under 38 U.S.C. 210(c) or 1815(b) or to sue or enter appearance for and on behalf of the Administrator or confess judgment against the Administrator in any court without the Administrator's prior authorization.

[FR Doc. 78-36200 Filed 12-27-78; 8:45 am]

[6560-01-M]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1010-3]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for the U.S. Naval Station, Mayport, Florida

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: The Administrator of EPA hereby issues a Delayed Compliance Order (DCO) to the U.S. Naval Station (NS). The DCO requires the NS to bring air emissions from its classified waste incinerator into compliance with certain regulations contained in the federally-approved Florida State Implementation Plan (SIP). The U.S. Naval Station's compliance with the DCO will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the DCO during the period the DCO is in effect.

DATES: This rule takes effect on December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Wayne Aronson, Air Enforcement Branch, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, telephone number: 404/881-4253.

ADDRESSES: The Delayed Compliance Order, supporting material, and any comments received in response to

a prior FEDERAL REGISTER notice proposing issuance of the DCO are available for public inspection and copying during normal business hours at: Air Enforcement Branch (3rd Floor), EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

SUPPLEMENTARY INFORMATION: On August 10, 1978, the Regional Administrator of EPA's Region IV Office published in the FEDERAL REGISTER, (43 FR 35506), a notice setting out the provisions of a proposed Delayed Compliance Order for the U.S. Naval Station. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed DCO. No comments or requests for a public hearing were received during the 30-day period provided in the informal proposed rulemaking procedure.

Therefore, a Delayed Compliance Order effective this date is issued to the U.S. Naval Station by the Administrator of EPA pursuant to the authority of Section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The DCO places the NS on a schedule to bring its classified material incinerator located in Mayport, Florida, into compliance as expeditiously as practicable with Chapter 17-2.04(6)(a)2a, Air Pollution Rules for the State of Florida, a part of the federally-approved Florida State Implementation Plan. The DCO also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the DCO are met, it will permit the U.S. Naval Station's classified waste incinerator to delay compliance with the SIP regulations covered by the DCO until July 1, 1979. The NS is unable to immediately comply with these regulations.

EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place the U.S. Naval Station on a schedule for compliance with the applicable requirement(s) of the Florida State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: December 14, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.140 to read as follows:

§ 65.140 Federal Delayed Compliance Orders issued under Section 113(d)(1), (3), and (4) of the Act.

Source	Location	Docket No.	Date of FR proposal	SIP regulation involved	Final compliance date
U.S. Naval Station (classified waste incinerator).	Mayport, Fla.....	DCO-78-2.....	Aug. 10, 1978 (43 FR 35506).	Chapter 17-2.04(6)(a)2a.	7/1/79

[FR Doc. 78-36027 Filed 12-27-78; 8:45 am]

[6560-01-M]

[FRL 1023-51]

PART 65—DELAYED COMPLIANCE ORDERS**Delayed Compliance Order for Gold Bond Building Products, Newark, Ohio**

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Gold Bond Building Products. The Order requires the company to bring air emissions from its tectum manufacturing process at Newark, Ohio, into compliance with certain regulations contained in the federally-approved Ohio State Implementation Plan (SIP). Gold Bond Building Products' compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violation of the SIP regulations covered by the Order.

DATE: This rule takes effect on December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Anne Swofford, Attorney, United States Environmental Protection Agency, Region V, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On August 18, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 36651) a notice

setting out the provisions of a proposed State Delayed Compliance Order for Gold Bond Building Products. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Gold Bond Building Products by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Gold Bond Building Products on a schedule to bring its tectum manufacturing process at Newark, Ohio, into compliance as expeditiously as practicable with Regulation OAC 3745-17-07 and OAC 3745-17-11, part of the federally-approved Ohio State Implementation Plan. Gold Bond Building Products is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Gold Bond Building Products to delay compliance with the SIP regulations covered by the Order until June 30, 1978.

Compliance with the Order by Gold Bond Building Products will preclude Federal enforcement action under Section 113 of the Act for violation of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the

Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Gold Bond Building Products is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purpose of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Gold Bond Building Products on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: December 18, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding an entry to the table in § 65.401 to read as follows:

§ 65.401 U.S. EPA Approval of State Delayed Compliance Orders issued to major stationary sources.

The State Orders identified below have been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to each Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Date of FR proposal	SIP regulation involved	Final compliance date
Gold Bond Building Products.....	Newark, Ohio.	Aug. 18, 1978.	OAC 3745-17-07; OAC 3745-17-11.	6-30-78

[FR Doc. 78-36028 Filed 12-27-78; 8:45 am]