FREQUENTLY ASKED QUESTIONS
E.O. 13292, FURTHER AMENDMENT TO E.O. 12958

1. **When was the amendment to E.O. 12958 signed?**

   The President signed E.O. 13292 on March 25, 2003.

2. **Is Executive Order 12958 now replaced by E.O. 13292? How should we refer to the Order on classified national security information?**

   No, E.O. 13292 is not a replacement for E.O. 12958, but rather a further amendment to E.O. 12958. In referring to the Executive Order on classified national security information, it is appropriate to call it E.O. 12958, as amended.

3. **What are the major changes made by this amendment to E.O. 12958?**

   - Extended the automatic declassification deadline by three years to allow agencies to complete reviewing the backlog of classified historical records more than 25 years old.
   - Broadened the authority of agencies to reclassify information that has not been disseminated publicly, but only under strictly controlled circumstances.
   - Broadened the protection of Confidential Foreign Government Information, while ensuring that such information remains subject to automatic declassification.
   - Simplified the process for classifying records for more than 10 years and less than 25 years.
   - Makes explicit the authority of the Director of Central Intelligence to protect intelligence sources and methods.

4. **When do the changes to this amendment to E.O. 12958 go into effect?**

   The changes are effective immediately, except for the section on identification and marking of classified information, section 1.6. The identification and markings section will become effective 180 days from the signing of the amendment, or September 22, 2003. These markings and other changes contained in the amendment will be further defined in the revision to the Information Security Oversight Office implementing Directive No. 1.

5. **What is the significance of eliminating the instruction not to classify information "when in significant doubt"?**

   This change will have no practical significance. The removal of the "significant doubt" provision, in effect, is a neutral change. It is important to note that the amendment has not changed the inherent discretion of an original classification authority. Specifically, the Order spells out what *can* be classified; an original classification authority can still determine that such information *should* not be classified. Equally important to note is that the "balancing test" for declassification has not been removed and is still in place at

section 3.1(b) (i.e., information should be declassified when the need to protect such information is outweighed by the public interest in disclosure of the information).

6. When can information be reclassified?

Properly declassified and released information may now be reclassified, under proper authority, only with "the personal authority of the agency head or deputy agency head" and only if the material may be "reasonably recovered." A similar provision was in effect under the predecessor Executive Order, but was seldom used. The Information Security Oversight Office will make special note of how often this provision is exercised and by whom in future annual reports.

Information that had not been disclosed to the public under proper authority may also be classified or reclassified after an agency has received a Freedom of Information Act request. This action also requires the "personal participation" of the agency head or the deputy agency head and can only occur on a document-by-document basis. This action can also be taken on records older than 25 years.

7. What is the purpose of the section of the amendment dealing with emergency disclosure of classified information?

One of the issues that arose in the wake of 9/11 was awareness of the limitations imposed by the lack of authority under E.O. 12958 to pass classified information to persons not otherwise eligible (e.g., local and state authorities) to receive it, in an emergency. As a result, a section has been added specifically authorizing an agency head or designated person to share classified information with individuals not otherwise eligible to receive it and specifying procedures to be followed. This is especially important in the context of homeland security.

8. Aren't the changes contained in the amendment another example of this administration's penchant for secrecy?

No. The program of "automatic declassification" that has led to the declassification of some one billion pages of older historical records has been preserved with no substantive modification. This amendment commits agencies to finish reviewing the backlog of classified records more than 25 years old, by the end of 2006. The other changes were recommended by a broad consensus of interagency professionals in the classification and declassification fields. They reflect seven years of experience in implementing E.O. 12958, as well as new priorities resulting from the events of 9/11.

9. Will it be harder now to demand declassification of records?

No. The standards for classification and declassification remain essentially the same, as do the procedures for seeking declassification. The Interagency Security Classification Appeals Panel (ISCAP) will continue to provide an opportunity to appeal declassification decisions.

10. Why didn't the administration issue a brand new Executive order on classified national security information?

The interagency effort provided a product that reflected consensus and seven years of experience of professionals in the classification and declassification fields. While the number of changes presented in the amendment seem numerous enough for a new Executive Order, it was deemed less disruptive to proceed with changes to the current framework rather than conduct a wholesale rewrite as has been the tradition.

11. How has the classification process been simplified?

With the amendment, the separate set of criteria for withholding information between 10 and 25 years from the date of origin has been eliminated. The revised language maintains ten years as the norm for most original classification actions. There is now one set of criteria for classification up to 25 years, section 1.4 of the Order, and another for withholding beyond 25 years, section 3.3 (b). When making decisions about how to complete the "Declassify on" line, an original classification authority will have four choices: (1) date or event; (2) 10 years from the date of origin; (3) a timeframe between 10 years and less than 25 years; or (4) 25 years from the date of origin.

12. Is the Vice President being given authority to classify information for the first time?

No. The Vice President has long had the authority, reaffirmed by the Clinton Executive order in 1995, to classify information at the TOP SECRET level. The amendment makes this point clear.