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(b) Upon written request, a written explanation will be provided as to why a request for waiver or reduction of FOIA fees was not granted.

(c) There is no right to an administrative appeal from a decision not to waive or reduce fees.

§ 1401.13 Aggregation of requests.

(a) When the General Counsel reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break down a request into a series of requests for the purpose of evading the assessment of fees, such requests may be aggregated and fees may be charged accordingly.

(b) In determining whether a series of requests shall be aggregated, the General Counsel will consider two factors: whether the requests concern a single subject or two or more closely related subjects; and whether the requests were all made within a 30-day period. If a series of requests is made by multiple requesters, the General Counsel will also consider whether there is substantial evidence to support the conclusion that the requesters are acting in concert.

§ 1401.14 Records that are exempt from disclosure.

(a) Records described in 5 U.S.C. 552(b) are exempt from disclosure under FOIA. These include the following categories of records:

(1) Records that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order;

(2) Records related solely to the internal personnel rules and practices of an agency;

(3) Records specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that such statute:

(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Records of trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings,

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identity of a confidential source including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

§ 1401.15 Deletion of exempted information.

When requested records contain matters that are exempted under 5 U.S.C. 552(b), but such exempted matters are reasonably segregable from the remainder of the records, the records shall be disclosed by ONDCP with the

necessary deletions. ONDCP shall attach to each such record a written justification for making the deletion or deletions. A single such justification shall suffice for deletions made in a group of similar or related records.

PART 1402—MANDATORY DECLASSIFICATION REVIEW

Sec.
1402.1 Purpose.
1402.2 Responsibility.
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AUTHORITY: Section 3.4, E.O. 12356 (3 CFR, 1982 Comp., p. 166), and Information Security Oversight Office Directive No. 1 (32 CFR 2001.32).

SOURCE: 57 FR 55089, Nov. 24, 1992, unless otherwise noted.

§ 1402.1 Purpose.

Other government agencies, U.S. citizens or permanent resident aliens may request that classified information in files of the Office of National Drug Control Policy (ONDCP) be reviewed for possible declassification and release. This part prescribes the procedures for such review and subsequent release or denial.

§ 1402.2 Responsibility.

All requests for the mandatory declassification review of classified information in ONDCP files should be addressed to the Security Officer, Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20500, who will acknowledge receipt of the request. When a request does not reasonably describe the information sought, the requester shall be notified that unless additional information is provided, or the scope of the request is narrowed, no further action will be taken.

§ 1402.3 Information in the custody of ONDCP.

Information contained in ONDCP files and under the exclusive declassification jurisdiction of ONDCP will be reviewed by the Director of the Office of Planning, Budget, and Administration of ONDCP and/or the office of primary interest to determine whether, under the declassification provisions of section 3.1 of Executive Order 12356 (3 CFR, 1982 Comp., p. 166), the requested information may be declassified. If the information may not be released, in whole or in part, the requester shall be given a brief statement as to the reasons for denial, a notice of the right to appeal the determination to the Director of ONDCP, and a notice that such an appeal must be filed within 60 days in order to be considered.

§ 1402.4 Information classified by another agency.

When a request is received for information that was classified by another agency, the Director of the Office of Planning, Budget, and Administration of ONDCP will forward the request and a copy of the document(s) along with any other related materials, to the appropriate agency for review and determination as to release. Recommendations as to release or denial may be made if appropriate. The requester will be notified of the referral, unless the receiving agency objects on the grounds that its association with the information requires protection.

§ 1402.5 Appeal procedure.

Appeals reviewed as a result of a denial will be routed to the Director of ONDCP, who will take action as necessary to determine whether any part of the information may be declassified. If so, the Director shall notify the requester of this determination and shall make any information available that is declassified and is otherwise releasable. If continued classification is required, the requester shall be notified by the Director of ONDCP of the reasons therefore.

§ 1402.6 Fees.

There will normally be no fees charged for the mandatory review of classified material for declassification under this part.

§ 1402.7 Suggestions and complaints.

Suggestions and complaints regarding the information security program