

National Security Council

§ 2103.13

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AUTHORITY: E.O. 12065 and Information Security Oversight Office Directive No. 1.

SOURCE: 44 FR 2384, Jan. 11, 1979, unless otherwise noted.

Subpart A—Introduction

§ 2103.1 References.

- (a) Executive Order 12065, "National Security Information," dated June 28, 1978.
- (b) Information Security Oversight Office, Directive No. 1, "National Security Information," dated October 2, 1978.

§ 2103.2 Purpose.

The purpose of this regulation is to ensure, consistent with the authorities listed in § 2103.1, that national security information processed by the National Security Council Staff is protected from unauthorized disclosure, but only to the extent, and for such period, as is necessary to safeguard the national security.

§ 2103.3 Applicability.

This regulation governs the National Security Council Staff Information Security Program. In consonance with the authorities listed in § 2103.1, it establishes the policy and procedures for the security classification, downgrading, declassification, and safeguarding of information that is owned by, is produced for or by, or is under the control of the National Security Council Staff.

Subpart B—Original Classification

§ 2103.11 Basic policy.

It is the policy of the National Security Council Staff to make available to the public as much information concerning its activities as is possible, consistent with its responsibility to protect the national security.

§ 2103.12 Level of original classification.

Unnecessary classification, and classification at a level higher than is necessary, shall be avoided. If there is reasonable doubt as to which designation in section 1-1 of Executive Order 12065 is appropriate, or whether information should be classified at all, the less restrictive designation should be used, or the information should not be classified.

§ 2103.13 Duration of original classification.

Original classification may be extended beyond six years only by officials with Top Secret classification authority. This extension authority shall be used only when these officials determine that the basis for original classification will continue throughout the entire period that the classification will be in effect and only for the following reasons:

- (a) The information is "foreign government information" as defined by the authorities in § 2301.1;
- (b) The information reveals intelligence sources and methods;
- (c) The information pertains to communication security;
- (d) The information reveals vulnerability or capability data, the unauthorized disclosure of which can reasonably be expected to render ineffective a system, installation, or project important to the national security;
- (e) The information concerns plans important to the national security, the unauthorized disclosure of which reasonably can be expected to nullify the effectiveness of the plan;
- (f) The information concerns specific foreign relations matters, the continued protection of which is essential to the national security;

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(g) Disclosure of the information would place a person's life in immediate jeopardy; or

(h) The continued protection of the information is specifically required by statute.

Even when the extension authority is exercised, the period of original classification shall not be greater than twenty years from the date of original classification, except that the original classification of "foreign government information" pursuant to paragraph (a) of this section may be for a period of thirty years.

§ 2103.14 Challenges to classification.

If holders of classified information believe that the information is improperly or unnecessarily classified, or that original classification has been extended for too long a period, they should discuss the matter with their immediate superiors or the classifier of the information. If these discussions do not satisfy the concerns of the challenger, the matter should be brought to the attention of the chairperson of the NSC Information Security Oversight Committee (see § 2103.51 of this part).

Subpart C—Derivative Classification

§ 2103.21 Definition and application.

Derivative classification is the act of assigning a level of classification to information that is determined to be the same in substance as information that is currently classified. Thus, derivative classification may be accomplished by any person cleared for access to that level of information, regardless of whether the person has original classification authority at that level.

Subpart D—Declassification and Downgrading

§ 2103.31 Declassification authority.

The Staff Secretary, Staff Counsel, and Director of Freedom of Information of the National Security Council Staff are authorized to declassify NSC documents after consultation with the appropriate NSC Staff members.

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§ 2103.32 Mandatory review for declassification.

(a) *Receipt.* (1) Requests for mandatory review for declassification under section 3-501 of Executive Order 12065 must be in writing and should be addressed to :

National Security Council, ATTN: Staff Secretary (Mandatory Review Request), Old Executive Office Building, Washington, DC 20506.

(2) The requestor shall be informed of the date of receipt of the request. This date will be the basis for the time limits specified in paragraph (b) of this section.

(3) If the request does not reasonably describe the information sought, the requestor shall be notified that, unless additional information is provided or the request is made more specific, no further action will be taken.

(b) *Review.* (1) The requestor shall be informed of the National Security Council Staff determination within sixty days of receipt of the initial request.

(2) If the determination is to withhold some or all of the material requested, the requestor may appeal the determination. The requestor shall be informed that such an appeal must be made in writing within sixty days of receipt of the denial and should be addressed to the chairperson of the National Security Council Classification Review Committee.

(3) The requestor shall be informed of the appellate determination within thirty days of receipt of the appeal.

(c) *Fees.* (1) Fees for the location and reproduction of information that is the subject of a mandatory review request shall be assessed according to the following schedule:

(i) *Search for records.* \$5.00 per hour when the search is conducted by a clerical employee; \$8.00 per hour when the search is conducted by a professional employee. No fee shall be assessed for searches of less than one hour.

(ii) *Reproduction of documents.* Documents will be reproduced at a rate of \$.25 per page for all copying of four pages or more. No fee shall be assessed for reproducing documents that are three pages or less, or for the first three pages of longer documents.