

**Subpart J—Classification and Declassification of National Security Information and Material**

AUTHORITY: 15 U.S.C. 77s; 11 U.S.C. 901, 1109(a); E.O. 12356, 47 FR 14874, Apr. 6, 1982; Information Security Oversight Office Directive No. 1 (47 FR 27836, June 25, 1982).

SOURCE: 44 FR 65737, Nov. 15, 1979, unless otherwise noted.

**§ 200.500 Purpose.**

This part establishes general policies and procedures for the classification, declassification and safeguarding of national security information which is generated, processed and/or stored by the Commission, and supplements Executive Order 12356, April 6, 1982 (47 FR 14874), and Information Security Oversight Office Directive No. 1, June 25, 1982 (47 FR 27836).

[47 FR 47236, Oct. 25, 1982]

**§ 200.501 Applicability.**

This part applies to the handling of, and public access to, national security information and classified documents in the Commission's possession. Such documents no longer in the Commission's possession will be handled by the agency having possession, or in accordance with guidelines developed in consultation with the Archivist.

**§ 200.502 Definition.**

As used in this part: *Foreign government information* means either (a) information provided to the United States by a foreign government or governments, an international organization of governments, or any element thereof with the expectation, express or implied, that the information, the source of the information, or both, are to be held in confidence, or (b) information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

[47 FR 47236, Oct. 25, 1982]

**§ 200.503 Senior agency official.**

The Chief Operating Officer of the Commission is designated the senior agency official responsible for conducting an oversight program to ensure effective implementation of Executive Order 12356. Any complaints or suggestions regarding the Commission's information security program should be directed to the Office of the Chief Operating Officer, Securities and Exchange Commission, Attn: Information Security Program, 100 F Street, NE., Washington, DC 20549.

(a) The Deputy Chief Operating Officer is the Senior Agency Official for purposes of the Paperwork Reduction Act of 1980. In this capacity, the Deputy Chief Operating Officer will carry out all responsibilities required by the Act (Pub. L. 96-511, 3506(b)), as well as serving as *Agency Clearance Officer* for purposes of the publication of notices in the FEDERAL REGISTER.

(b) [Reserved]

[47 FR 47236, Oct. 25, 1982, as amended at 49 FR 12686, Mar. 30, 1984; 51 FR 5315, Feb. 13, 1986; 73 FR 32226, June 5, 2008; 76 FR 60371, 60372, Sept. 29, 2011]

**§ 200.504 Oversight Committee.**

An Oversight Committee is established, under the chairmanship of the Chief Operating Officer, with the following responsibilities:

(a) Establish a security education program to familiarize Commission and other personnel who have access to classified information with the provisions of Executive Order 12065, and encourage Commission personnel to challenge those classification decisions they believe to be improper.

(b) Establish controls to insure that classified information is used, processed, stored, reproduced, and transitted only under conditions that will provide adequate protection and prevent access by unauthorized persons.

(c) Establish procedures which require that a demonstrable need, under section 4-1 of Executive Order 12065, for access to classified information be established before administrative clearance procedures are initiated, as well as other appropriate procedures to prevent unnecessary access to classified information.

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(d) Act on all suggestions and complaints concerning Commission administration of its information security program.

(e) Establish procedures within the Commission to insure the orderly and effective referral of requests for declassification of documents in the Commission's possession.

(f) Review on an annual basis all practices for safeguarding information and to eliminate those practices which are duplicative or unnecessary.

(g) Recommend to the Chairman of the Commission appropriate administrative action to correct abuse or violation of any provision of Executive Order 12356.

(h) Consider and decide other questions concerning classification and declassification that may be brought before it.

(i) Develop special contingency plans for the protection of classified information used in or near hostile or potentially hostile areas.

(j) Promptly notify the Director of the Information Security Oversight Office whenever an officer or employee of the United States Government or its contractors, licensees or grantees knowingly, willfully or negligently (1) discloses to unauthorized persons information properly classified under Executive Order 12356 or predecessor orders or (2) classifies or continues the classification of information in violation of Executive Order 12356 or predecessor orders.

[44 FR 65737, Nov. 15, 1979, as amended at 47 FR 47236, Oct. 25, 1982; 51 FR 5315, Feb. 13, 1986]

### § 200.505 Original classification.

(a) No Commission Member or employee has the authority to classify any information on an original basis.

(b) If a Commission employee originates information that appears to require classification, the employee shall immediately notify the Secretary and protect the information accordingly.

(c) If the Chief Operating Officer believes the information warrants classification, it shall be sent to an agency with original classification authority over the subject matter, or to the in-

formation Security Oversight Office, for determination.

[44 FR 65737, Nov. 15, 1979, as amended at 51 FR 5315, Feb. 13, 1986]

### § 200.506 Derivative classification.

Any document that includes paraphrases, restatements, or summaries of, or incorporates in new form, information that is already classified shall be assigned the same level of classification as the source; if, however, the basic information appears to have been so changed that no classification, or a lower classification than originally assigned, should be used, the appropriate official of the originating agency or office of origin who has the authority to upgrade, downgrade or declassify the information must be consulted prior to assigning a different classification to the information.

[47 FR 47236, Oct. 25, 1982]

### § 200.507 Declassification dates on derivative documents.

(a) A document that derives its classification from information classified under Executive Order 12356 of predecessor orders shall be marked with the date or event assigned to that source information for its automatic declassification or for review of its continued need for classification.

(b) A derivative document that derives its classification from the approved use of the classification guide of another agency shall bear the declassification date required by the provisions of that classification guide.

[47 FR 47236, Oct. 25, 1982]

### § 200.508 Requests for mandatory review for declassification.

(a) Requests for mandatory review of a Commission document for declassification may be made by any United States citizen or permanent resident alien, including Commission employees, or a Federal agency, or a State or local government. The request shall be in writing and shall be sent to the Office of the Chief Operating Officer, Attn: Mandatory Review Request, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

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(b) The request shall describe the material sufficiently to enable the Commission to locate it. Requests with insufficient description of the material will be returned to the requester for further information.

(c) Within 5 days of receiving a request for declassification, the Commission shall acknowledge its receipt. If the document was derivatively classified by the Commission or originally classified by another agency, the request and the document shall be forwarded promptly to the agency with original classification authority together with the Commission's recommendation to withhold any of the information where appropriate. The requester shall be notified of the referral.

(d) If the request requires the provision of services by the Commission, fair and equitable fees may be charged under title 5 of the Independent Offices Appropriation Act, 65 Stat. 290, 31 U.S.C. 483a.

[44 FR 65737, Nov. 15, 1979, as amended at 47 FR 47237, Oct. 25, 1982; 51 FR 5315, Feb. 13, 1986; 73 FR 32226, June 5, 2008]

### § 200.509 Challenge to classification by Commission employees.

Commission employees who have reasonable cause to believe that information is classified unnecessarily, improperly, or for an inappropriate period of time, may challenge those classification decisions through mandatory review or other appropriate procedures as established by the Oversight Committee. Commission employees who challenge classification decisions may request that their identity not be disclosed.

### § 200.510 Access by historical researchers.

(a) Persons outside the executive branch performing historical research may have access to information over which the Commission has classification jurisdiction for the period requested (but not longer than 2 years unless renewed for an additional period of less than 2 years) if the Chief Operating Officer determines in writing that access to the information will be consistent with the interests of national security.

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(b) The person seeking access to classified information must agree in writing:

(1) To be subject to a national agency check;

(2) To protect the classified information in accordance with the provisions of Executive Order 12356; and

(3) Not to publish or otherwise reveal to unauthorized persons any classified information.

[44 FR 65737, Nov. 15, 1979, as amended at 47 FR 47237, Oct. 25, 1982; 51 FR 5315, Feb. 13, 1986]

### § 200.511 Access by former Presidential appointees.

(a) Former Commission Members appointed by the President may have access to classified information or documents over which the Commission has jurisdiction that they originated, reviewed, signed, or received while in public office, if the Chief Operating Officer determines in writing that access to the information will be consistent with the interest of nation security.

(b) The person seeking access to classified information must agree in writing:

(1) To be subject to a national agency check;

(2) To protect the classified information in accordance with the provisions of Executive Order 12356; and

(3) Not to publish or otherwise reveal to unauthorized persons any classified information.

[44 FR 65737, Nov. 15, 1979, as amended at 47 FR 47237, Oct. 25, 1982; 51 FR 5315, Feb. 13, 1986]

## Subpart K—Regulations Pertaining to the Protection of the Environment

AUTHORITY: 15 U.S.C. 78w(a)(2).

SOURCE: 44 FR 41177, July 16, 1979, unless otherwise noted.

### § 200.550 Purpose.

This subpart sets forth the procedures the Commission will follow to ensure compliance with the goals of the National Environmental Policy Act (NEPA) and with the procedures required by NEPA in the event that the