

request. In the event that a response cannot be made within this time, the requestor will be notified by mail of the reasons for the delay and the date upon which a reply can be expected.

(d) The NSC response will forward a copy of the requested materials unless further identification or clarification of the request is required. In the event access is denied, the requestor shall be informed of the reasons therefore and the name and address of the individual to whom an appeal should be directed.

§ 2102.15 Requirements for requests to amend records.

(a) Individuals wishing to amend a record contained in the NSC systems of records pertaining to them must submit a request in writing to the Staff Secretary of the NSC in accordance with the procedures set forth herein.

(b) All requests for amendment or correction of a record must state concisely the reason for requesting the amendment. Such requests should include a brief statement which describes the information the requestor believes to be inaccurate, incomplete, or unnecessary and the amendment or correction desired.

(c) To the extent possible, every request for amendment of a record will be answered within ten working days (excluding Saturdays, Sundays, and legal Federal holidays) of the receipt of the request. In the event that a response cannot be made within this time, the requestor will be notified by mail of the reasons for the delay and the date upon which a reply can be expected. A final response to a request for amendment will include the NSC Staff determination on whether to grant or deny the request. If the request is denied, the response will include:

- (1) The reasons for the decision;
- (2) The name and address of the individual to whom an appeal should be directed;
- (3) A description of the process for review of the appeal within the NSC; and
- (4) A description of any other procedures which may be required of the individual in order to process the appeal.

§ 2102.21 Procedures for appeal of determination to deny access to or amendment of requested records.

(a) Individuals wishing to appeal an NSC Staff denial of a request for access or to amend a record concerning them must address a letter of appeal to the Staff Secretary of the NSC. The letter must be received within thirty days from the date of the Staff Secretary's notice of denial and, at a minimum, should identify the following:

- (1) The records involved;
- (2) The dates of the initial request and subsequent NSC determination; and

(3) A brief statement of the reasons supporting the request for reversal of the adverse determination.

(b) Within thirty working days (excluding Saturdays, Sundays and legal Federal holidays) of the date of receipt of the letter of appeal, the Assistant to the President for National Security Affairs (hereinafter the "Assistant"), or the Deputy Assistant to the President for National Security Affairs (hereinafter the "Deputy Assistant"), acting in his name, shall issue a determination on the appeal. In the event that a final determination cannot be made within this time period, the requestor will be informed of the delay, the reasons therefor and the date on which a final response is expected.

(c) If the original request was for access and the initial determination is reversed, a copy of the records sought will be sent to the individual. If the initial determination is upheld, the requestor will be so advised and informed of the right to judicial review pursuant to 5 U.S.C. 552a(g).

(d) If the initial denial of a request to amend a record is reversed, the records will be corrected and a copy of the amended record will be sent to the individual. In the event the original decision is upheld by the Assistant to the President, the requestor will be so advised and informed in writing of his or her right to seek judicial review of the final agency determination, pursuant to section 552a(g) of title 5, U.S.C. In addition, the requestor will be advised of his right to have a concise statement of the reasons for disagreeing with the final determination appended to the disputed records. This statement

§ 2102.31

should be mailed to the Staff Secretary within ten working days (excluding Saturdays, Sundays, and legal Federal Holidays) of the date of the requestor's receipt of the final determination.

§ 2102.31 Disclosure of a record to persons other than the individual to whom it pertains.

(a) Except as provided by the Privacy Act, 5 U.S.C. 552a(b), the NSC will not disclose a record concerning an individual to another person or agency without the prior written consent of the individual to whom the record pertains.

§ 2102.41 Fees.

(a) Individuals will not be charged for:

(1) The first copy of any record provided in response to a request for access or amendment;

(2) The search for, or review of, records in NSC files;

(3) Any copies reproduced as a necessary part of making a record or portion thereof available to the individual.

(b) After the first copy has been provided, records will be reproduced at the rate of twenty-five cents per page for all copying of four pages or more.

(c) The Staff Secretary may provide copies of a record at no charge if it is determined to be in the interest of the Government.

(d) The Staff Secretary may require that all fees be paid in full prior to the issuance of the requested copies.

(e) Remittances shall be in the form of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the "United States Treasury" and mailed to the Staff Secretary, National Security Council, Washington, DC 20506.

(f) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

§ 2102.51 Penalties.

Title 18, U.S.C. section 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of \$10,000 or imprisonment for not more than five years or both, to

32 CFR Ch. XXI (7–1–12 Edition)

knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. Section (i)(3) of the Privacy Act (5 U.S.C. 552a) makes it a misdemeanor, subject to a maximum fine of \$5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Sections (i)(1) and (2) of 5 U.S.C. 552a provide penalties for violations by agency employees, of the Privacy Act or regulations established thereunder.

§ 2102.61 Exemptions.

Pursuant to subsection (k) of the Privacy Act (5 U.S.C. 552a), the Staff Secretary has determined that certain NSC systems of records may be exempt in part from sections 553(c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f) of title 5, and from the provisions of these regulations. These systems of records may contain information which is classified pursuant to Executive Order 11652. To the extent that this occurs, records in the following systems would be exempt under the provision of 5 U.S.C. 552a(k)(1):

NSC 1.1—Central Research Index,
NSC 1.2—NSC Correspondence Files, and
NSC 1.3—NSC Meetings Registry.

PART 2103—REGULATIONS TO IMPLEMENT E.O. 12065—INCLUDING PROCEDURES FOR PUBLIC ACCESS TO DOCUMENTS THAT MAY BE DECLASSIFIED

Subpart A—Introduction

Sec.

2103.1 References.

2103.2 Purpose.

2103.3 Applicability.

Subpart B—Original Classification

2103.11 Basic policy.

2103.12 Level of original classification.

2103.13 Duration of original classification.

2103.14 Challenges to classification.

Subpart C—Derivative Classification

2103.21 Definition and application.