

NACIC with a mandatory unclassified finding, to the greatest extent possible, and an optional classified addendum. This finding shall agree to a declassification or, in specific and factual terms, explain the basis for continued classification including identification of the category of information, the harm to national security which could be expected to result from disclosure, and, if older than ten (10) years, the basis for the extension of classification time under §§1.6 and 3.4 of this Order. These parties shall also provide a statement as to whether or not there is any other statutory, common law, or Constitutional basis for withholding as required by §6.1(c) of this Order.

(c) *Time.* The determination(s) shall be provided on a first in, first out basis with respect to all challenges pending under this section and shall be accomplished expeditiously taking into account the requirements of the authorized holder as well as the business requirements of the originator including their responsibilities under the Freedom of Information Act, the Privacy Act, or the mandatory declassification review provisions of this Order.

§ 1802.24 Designation of authority to hear challenges.

The Director, NACIC is the NACIC authority to hear and decide challenges under this part.

§ 1802.25 Action on challenge.

Action by Coordinator. The Coordinator shall provide a summation memorandum for consideration of the Director, NACIC; the complete package consisting of the challenge, the information at issue, and the findings of the originator and interested parties shall also be provided. The Director, NACIC shall personally decide each case; no personal appearances shall be permitted without the express permission of the Director, NACIC.

§ 1802.26 Notification of decision and prohibition on adverse action.

The Coordinator shall communicate the decision of NACIC to the authorized holder, the originator, and other interested parties within ten (10) days of the decision by the Coordinator. That correspondence shall include a

notice that no adverse action or retribution can be taken in regard to the challenge and that an appeal of the decision may be made to the Interagency Security Classification Appeals Panel (ISCAP) established pursuant to §5.4 of this Order.

Subpart D—Right of Appeal

§ 1802.31 Right of appeal.

A right of appeal is available to the ISCAP established pursuant to §5.4 of this Order. Action by that body will be the subject of rules to be promulgated by the Information Security Oversight Office (ISOO).

PART 1803—PUBLIC REQUESTS FOR MANDATORY DECLASSIFICATION REVIEW OF CLASSIFIED INFORMATION PURSUANT TO SECTION 3.6 OF EXECUTIVE ORDER 12958

Subpart A—General

Sec.

- 1803.1 Authority and purpose.
- 1803.2 Definitions.
- 1803.3 Contact for general information and requests.
- 1803.4 Suggestions and complaints.

Subpart B—Filing of Mandatory Declassification Review (MDR) Requests

- 1803.11 Preliminary information.
- 1803.12 Requirements as to form.
- 1803.13 Fees.

Subpart C—NACIC Action on MDR Requests

- 1803.21 Receipt, recording, and tasking.
- 1803.22 Requests barred by res judicata.
- 1803.23 Determination by originator or interested party.
- 1803.24 Notification of decision and right of appeal.

Subpart D—NACIC Action on MDR Appeals

- 1803.31 Requirements as to time and form.
- 1803.32 Receipt, recording, and tasking.
- 1803.33 Determination by NACIC Office Chiefs
- 1803.34 Appeal authority.
- 1803.35 Action by appeals authority.
- 1803.36 Notification of decision and right of further appeal.

Subpart E—Further Appeals

1803.41 Right of further appeal.

AUTHORITY: Section 3.6 of Executive Order 12958 (or successor Orders) and Section 102 of the National Security Act, as amended (50 U.S.C. 403).

SOURCE: 64 FR 49890, Sept. 14, 1999, unless otherwise noted.

Subpart A—General**§ 1803.1 Authority and purpose.**

(a) *Authority.* This part is issued under the authority of and in order to implement §3.6 of Executive Order (E.O.) 12958 (or successor Orders); and Section 102 of the National Security Act of 1947, as amended (50 U.S.C. 403).

(b) *Purpose.* This part prescribes procedures, subject to limitations set forth below, for members of the public to request a declassification review of information classified under the various provisions of this or predecessor Orders. Section 3.6 of E.O. 12958 and these regulations do not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, or employees.

§ 1803.2 Definitions.

For purposes of this part, the following terms have the meanings as indicated:

NACIC means the United States National Counterintelligence Center acting through the NACIC Information and Privacy Coordinator;

Days means calendar days when NACIC is operating and specifically excludes Saturdays, Sundays, and legal public holidays. Three (3) days may be added to any requirement of this part if responding by U.S. domestic mail; ten (10) days may be added if responding by international mail;

Control means ownership or the authority of NACIC pursuant to federal statute or privilege to regulate official or public access to records;

Coordinator means the NACIC Information and Privacy Coordinator who serves as the NACIC manager of the information review and release program instituted under the mandatory declassification review provisions of Executive Order 12958;

Federal agency means any executive department, military department, or other establishment or entity included in the definition of agency in 5 U.S.C. 552(f);

Information means any knowledge that can be communicated or documentary material, regardless of its physical form that is owned by, produced by or for, or under the control of the United States Government; it does not include information originated by the incumbent President, White House Staff, appointed committees, commissions or boards, or any entities within the Executive Office that solely advise and assist the incumbent President;

Interested party means any official in the executive, military, congressional, or judicial branches of government, United States or foreign, or U.S. Government contractor who, in the sole discretion of NACIC, has a subject matter or physical interest in the documents or information at issue;

NARA means the National Archives and Records Administration;

Originator means the NACIC officer who originated the information at issue, or successor in office, or a NACIC officer who has been delegated declassification authority for the information at issue in accordance with the provisions of this Order;

Presidential libraries means the libraries or collection authorities established by statute to house the papers of former Presidents Hoover, Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, Reagan, Bush and similar institutions or authorities as may be established in the future;

Referral means coordination with or transfer of action to an interested party;

This Order means Executive Order 12958 of April 17, 1995 or successor Orders;

§ 1803.3 Contact for general information and requests.

For general information on this part or to request a declassification review, please direct your communication to the Information and Privacy Coordinator, National Counterintelligence Center, 3W01 NHB, Washington, DC 20505. Such inquiries will also be accepted by facsimile at (703) 874-5844.