

Encl. 2

INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

WASHINGTON, D.C. 20408

MEMORANDUM FOR:

SUBJECT:

SECURITY CLASSIFICATION AND ACCESS
CONTROL MARKINGS AUTHORIZED BY
EXECUTIVE ORDER 11652

The Interagency Classification Review Committee was established by Section 7(A) of Executive Order 11652 to assist the National Security Council in the discharge of its responsibility to monitor implementation of the Order. In particular, the Executive order charges the Committee to receive, consider and take action on suggestions and complaints with respect to the administration of the Order.

Recently, two specific problem areas have been brought to the attention of the Committee which demand immediate corrective action. The first of these problems is the distribution of documents both within and without the originating Departments which bear markings authorized by the Executive order, specifically, "Top Secret," "Secret," and "Confidential," but which do not meet the criteria established by the Executive order to qualify as material requiring protection in the interests of national security. Examples of such markings are "(Agency) Confidential" and "Conference Confidential." Experience shows that, in most instances, such markings are applied not to designate the information as that requiring protection in the interests of national security, but rather, to designate it as information which may be withheld from public release under the exemptions provided for in the Freedom of Information Act, as amended, other than 5 U.S.C. 552 (b)(1). In other instances, investigation reveals that the unauthorized application of Executive order classification markings derives from a lack of understanding on the part of Departmental personnel of classification criteria and procedures. The improper use of authorized classification markings results in (1) confusion on the part of recipients as to whether such information qualifies as national security information, (2) proliferation of unnecessarily classified information and (3) degradation of the classification system.

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*Personnel
Security
Medical*

Section 1 of Executive Order 11652 is clear in its proscription of security classification markings other than Top Secret, Secret and Confidential. This section of the Order states that "No other

categories shall be used to identify official information or material as requiring protection in the interests of national security, except as otherwise expressly provided by statute." Accordingly, the use of the terms "Top Secret", "Secret" and "Confidential" should be strictly reserved to designate that information qualifying as national security information.

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The second problem which has come to the attention of the Committee has been the application of unauthorized access control terms such as "sensitive" in conjunction with authorized classification markings. Presumably, the use of such terms is intended to indicate that classified documents so marked are to receive limited and controlled distribution and dissemination. However, outside the originating department, this and similar unauthorized terms have no generally understood meaning. Consequently, when a classified document is so marked, confusion on the part of the recipient with respect to the handling of and extracting from the document prevails. Further, the use of such terms tends to connote the existence of security classifications other than those prescribed in the Order. This, in itself, has been a subject of major concern to the Congress over the past few years during hearings associated with proposed classification legislation.

Concerning the use of access control designations in conjunction with authorized classifications, Sections 8 and 9 of the Executive order provide instruction relative to the handling and distribution of material covered by the Atomic Energy Act and for material covered by special departmental arrangements. Similarly, Section IV, H., of the May 17, 1972 National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information prescribes the application of warning notices to be displayed on classified documents. For information covered by these sections, mutually agreed upon and authorized designations such as "Secret/Restricted Data," "Top Secret/(Codeword)," "Secret/CNWDI" and the like have been developed. The use of such mutually agreed upon inter-agency terms in a restricted sector of the executive branch presents no problems or confusion. Rather, it is the use of unauthorized terms or terms for which the meaning is not clear which causes the confusion.

In those situations where there is not a mutually agreed upon inter-agency term such as those described above, it would appear that strict adherence to the principle that any classified document shall be released only to persons properly cleared and who have a "need-to-know" the information in order to carry out their official duties will normally achieve the desired degree of control over the information. If, in a special situation, it is deemed necessary to inform recipients of certain documents that release is intended only to certain persons, then the appropriate authorized dissemination instructions should be included in the body of the text of the document or added as a special notation separate and apart (e.g., on a separate line) from the security classification marking.

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It is requested that the above be given appropriate dissemination within your Department and that you take such further action as may be necessary to assure that security classification markings are in conformance with those set forth in Executive Order 11652 and its implementing National Security Council Directive of May 17, 1972. Please provide the Executive Director of the Committee a copy of any action paper you may develop based on this request.

JAMES B. RHOADS
Acting Chairman