

## CHAPTER 11

### FOREIGN GOVERNMENT INFORMATION

#### A. General Information

This chapter provides guidance for determining if historical records, containing DOE NSI, pertaining to foreign government information are to be declassified or have their classification retained beyond 25 years in accordance with the provisions of E.O. 12958. ***Documents containing RD and FRD are not addressed by this document and retain present classification.***

Foreign government information is defined as:

1. information provided by a foreign government(s), an international organization of governments, or any element thereof with the expectation, expressed or implied, that the information, the source of the information, or both, are to be held in confidence; or
2. information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government(s) or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

Foreign Government information also includes information produced within the DOE complex that is related to the formulation of official U.S. positions or strategies for international negotiations or agreements, whether or not such information was actually exchanged with a foreign government or international organization of governments.

#### B. Broad Guidance

Classification plays an important role in U.S. relations with foreign countries. It is particularly critical that information shared

among governments under an implied or explicit statement of confidentiality be controlled until such time as all parties agree to its release. This applies whether the U.S. was the provider or the recipient of the information. Similarly, the fact that information was exchanged may be sensitive. Therefore, if the historical records indicate that information was provided in confidence, the classification shall be retained beyond 25 years unless other information is available to indicate that all parties have agreed to its release.

Examples of historical records that are 25 years or older containing foreign government information within the exempt areas include (but are not limited to) documents containing information relating to:

1. Formulation of U.S. positions and strategies related to official interchanges with a foreign government;
2. U.S. policy discussions and decisions related to negotiations;
3. Arms control negotiations;
4. Negotiation instructions to U.S. delegations;
5. Treaty implementation provisions;
6. Treaty verification and/or compliance determinations (e.g., yield thresholds, deception or spoofing) regarding nuclear weapons and nuclear testing;
7. Exchange or transfer of nuclear materials with a foreign country;
8. Specific details of negotiated mutual agreements regarding safeguarding of nuclear weapons and nuclear materials;

9. Negotiations for storing nuclear weapons in a foreign country;
10. Joint programs with foreign governments or entities;
11. Negotiations or details of discussions or agreements between DOE, or predecessor agency, officials and foreign government representatives that have an expectation of confidence either expressed or implied.

In the absence of information that the parties mutually agreed to their public release, documents within DOE purview containing information that falls in any of the above areas would have their classification retained. In this context, DOE purview refers to information relating to: energy policy; SNM production; nuclear weapons; nuclear reactors; arms control; or related matters. Documents containing other foreign government information should be coordinated with the

Department of State or other appropriate agency.

Historical records, 25 years or older, containing DOE/NNSA foreign government information not covered by the specific guidance below are unclassified. This does not include records containing information classified by statute such as RD and FRD (AEA of 1954, as amended). These records shall be handled, protected, classified, downgraded, and declassified in accordance with the provisions of the AEA and regulations issued under that Act. Reviewers who are not authorized by DOE/NNSA to classify or declassify such documents should not attempt final determinations. Refer to appendix A for information on identifying and handling documents containing potential RD/FRD. In all cases where there is a question concerning the sensitivity of the information, it should be referred to the DOE HQ classification office for a classification determination.

## C. Topics

### 11.0 FOREIGN GOVERNMENT INFORMATION

11.1 Foreign government information obtained by DOE from a foreign national(s) in a public forum (e.g., meeting presentations, news media, speeches)

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11.2 Foreign government information obtained by DOE from a foreign government in confidence

*NOTE:* Declassify when officially released by the foreign government(s)/international organization(s) and the appropriate U.S. Government agency.

**Retain  
Classification  
(potential for  
RD/FRD)  
[25X6, 9; EV]**

11.2A Foreign government information declassified and officially released by a U.S. Government organization (i.e., by a department or agency)

U

11.3 DOE information provided to a foreign government in confidence

*NOTE:* Declassify when officially released by the foreign government(s)/international organization(s) and the appropriate U.S. Government agency.

**Retain  
Classification  
(potential for  
RD/FRD)  
[25X6, 9; EV]**

11.4 Substantive DOE information concerning the formulation of official U.S. positions or strategies related to confidential international negotiations, or concerning any of the enumerated subject areas outlined in Broad Guidance, whether or not such information was actually exchanged with a foreign government or international organization of governments

*NOTE:* Declassify when officially released by the foreign government(s)/international organization(s) and the appropriate U.S. Government agency.

**Retain  
Classification  
[25X6, 9; EV]**

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