

*Foreign government.* Includes foreign governments and international organizations of governments.

*Foreign government information.* Foreign government information is: (1) Information provided by a foreign government or governments, 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 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.

*National security.* The national defense or foreign relations of the United States.

*Confidential source.* Any individual or organization that has provided, or that may reasonably be expected to provide, information to the United States on matters pertaining to the national security with the expectation, expressed or implied, that the information or relationship, or both, be held in confidence.

*Classification guide.* A document issued by an authorized original classifier that prescribes the level of classification and appropriate declassification instructions for specified information to be classified derivatively.

*Derivative classification.* A determination that information is in substance the same as information currently classified, together with the designation of the level of classification.

*Special access program.* Any program imposing "need-to-know" or access controls beyond those normally provided for access to Confidential, Secret, or Top Secret information. Such a program may include, but is not limited to, special clearance, adjudication, or investigative requirements, special designations of officials authorized to determine "need-to-know," or special lists of persons determined to have a "need-to-know." It does not include special captions such as NODIS, LIMDIS.

*Intelligence activity.* An activity that an agency within the Intelligence Community is authorized to conduct pursuant to the Order.

*Unauthorized disclosure.* A communication or physical transfer of classified information to an unauthorized recipient.

## **PART 9a—SECURITY INFORMATION REGULATIONS APPLICABLE TO CERTAIN INTERNATIONAL ENERGY PROGRAMS; RELATED MATERIAL**

Sec.

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AUTHORITY: E.O. 11932 (41 FR 32691), E.O. 11652 (37 FR 5209, National Security Council Directive of May 17, 1972 (37 FR 10053)).

SOURCE: 42 FR 46516, Sept. 16, 1977; 42 FR 57687, Nov. 4, 1977, unless otherwise noted.

### **§ 9a.1 Security of certain information and material related to the International Energy Program.**

These regulations implement Executive Order 11932 dated August 4, 1976 (41 FR 32691, August 5, 1976) entitled "Classification of Certain Information and Material Obtained from Advisory Bodies Created to Implement the International Energy Program."

### **§ 9a.2 General policy.**

(a) The United States has entered into the Agreement on an International Energy Program of November 18, 1974, which created the International Energy Agency (IEA). This program is a substantial factor in the conduct of our foreign relations and an important element of our national security. The effectiveness of the Agreement depends significantly upon the provision and exchange of information and material by participants in advisory bodies created by the IEA. Confidentiality is essential to assure the free and open discussion necessary to accomplish the tasks assigned to those bodies.

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(b) These regulations establish procedures for the classification, declassification, storage, access, and dissemination of certain information related to the International Energy Program.

### §9a.3 Scope.

These regulations apply to all information and material classified by the United States under the provisions of E.O. 11932, dated August 4, 1976 entitled "Classification of Certain Information and Material Obtained From Advisory Bodies Created To Implement The International Energy Program."

### §9a.4 Classification.

(a) Section 1 of E.O. 11932, August 4, 1976 directs that information and material obtained pursuant to the International Energy Program and which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States shall be classified pursuant to Executive Order 11652.

(b) Information and material, including transcripts, records, and communications, in the possession of the United States Government which has been obtained pursuant to (1) section 252(c)(3), (d)(2) or (e)(3) of the Energy Policy and Conservation Act (89 Stat. 871, 42 U.S.C. 6272(c)(3), (d)(2), (e)(3)), or (2) The Voluntary Agreement and Program Relating to the International Energy Program (40 FR 16041, April 8, 1975), or (3) the Voluntary Agreement and Plan of Action to Implement the International Energy Program (41 FR 13998, April 1, 1976), or (4) Any similar Voluntary Agreement and Program entered into under the Energy Policy and Conservation Act shall be reviewed by an officer of the Department of State with classifying authority for the purpose of determining whether such information or material should be classified pursuant to E.O. 11652. If the officer determines that the information or material warrants classification, he shall assign it the appropriate classification. Such information or material may be exempted from the General Declassification Schedule established by section 5 of Executive Order No. 11652 if it was obtained by the United States on the understanding that it be kept in confidence, or if it might otherwise be

exempted under section 5(B) of such Order.

(c) In classifying such information or material, officers of the Department of State shall follow the standards in E.O. 11652 and the provisions of 22 CFR 9.5 through 9.8.

### §9a.5 Declassification and downgrading.

The provisions of E.O. 11652, 22 CFR 9.9 through 9.15, and 9a.4(b) shall govern declassification and downgrading of such information or material.

### §9a.6 Marking.

(a) The provisions of 22 CFR 9.15 through 9.19 shall govern the marking of information or material classified under the provisions of these regulations, except that the following stamp shall be used as appropriate:

(Top Secret, Secret or Confidential)  
Classified by: \_\_\_\_\_  
Under Executive Order 11932  
Exempt from General Declassification  
Schedule of E.O. 11652 Exemption Category  
section 5B (2), (3), or (4); or E.O. 11932  
Automatically Declassified on \_\_\_\_\_  
(effective date or event if any)

Exemption category "E.O. 11932" shall be used for information and material obtained by the United States on the understanding that it be kept in confidence and classified under E.O. 11932.

(b) If the information or material does not qualify for exemption from the General Declassification Schedule, ordinary stamps and marking may be used.

### §9a.7 Access.

(a) Except as set forth in this section, access to information or material classified under the provisions of these regulations shall be governed by the provisions of 22 CFR 9.20 through 9.25.

(b) Classified information and material which was created by or in connection with an advisory body to the IEA may be made available to participants in such advisory body and their colleagues in accordance with the following subsections.

(c) Such information and material classified "Confidential" may be made available for review to participants in the meeting of the advisory body in which it was developed or discussed.