

103-236, set out as a note under section 2651a of this title.

§ 4353. Procedures for identifying records for FRUS series; declassification, revisions, and summaries

(a) Development of procedures

Not later than 180 days after October 28, 1991, each department, agency, or other entity of the United States Government engaged in foreign policy formulation, execution, or support shall develop procedures for its historical office (or a designated individual in the event that there is no historical office)—

(1) to coordinate with the State Department's Office of the Historian in selecting records for possible inclusion in the FRUS series;

(2) to permit full access to the original, unrevised records by such individuals holding appropriate security clearances as have been designated by the Historian as liaison to that department, agency, or entity, for purposes of this chapter, and by members of the Advisory Committee; and

(3) to permit access to specific types of records not selected for inclusion in the FRUS series by the individuals identified in paragraph (2) when requested by the Historian in order to confirm that records selected by that department, agency, or entity accurately represent the policymaking process reflected in the relevant part of the FRUS series.

(b) Declassification review

(1) Subject to the provisions of this subsection, records selected by the Historian for inclusion in the FRUS series shall be submitted to the respective originating agency for declassification review in accordance with that agency's procedures for such review, except that such declassification review shall be completed by the originating agency within 120 days after such records are submitted for review. If the originating agency determines that any such record is not declassifiable because of a continuing need to protect sources and methods for the collection of intelligence information or to protect other sensitive national security information, then the originating agency shall attempt to make such deletions in the text as will make the record declassifiable.

(2) If the Historian determines that the meaning of the records proposed for inclusion in a volume of the FRUS series would be so altered or changed by deletions made under paragraph (1) that publication in that condition could be misleading or lead to an inaccurate or incomplete historical record, then the Historian shall take steps to achieve a satisfactory resolution of the problem with the originating agency. Within 60 days of receiving a proposed solution from the Historian, the originating agency shall furnish the Historian a written response agreeing to the solution or explaining the reasons for the alteration or deletion.

(3) The Historian shall inform the Advisory Committee of any failure by an originating agency to complete its declassification review of a record within 120 days and of any steps taken under paragraph (2).

(4) If the Advisory Committee determines that the meaning of the records proposed for inclusion in a volume of the FRUS series would be so altered or changed by deletions made under paragraph (1), or if the Advisory Committee determines as a result of inspection of other documents under subsection (a)(3) that the selection of documents could be misleading or lead to an inaccurate or incomplete historical record, then the Advisory Committee shall so advise the Secretary of State and submit recommendations to resolve the issue.

(5)(A) The Advisory Committee shall have full and complete access to the original text of any record in which deletions have been made. In the event that the head of any originating agency considers it necessary to deny access by the Advisory Committee to the original text of any record, that agency head shall promptly notify the Advisory Committee in writing, describing the nature of the record in question and the justification for withholding that record.

(B) The Historian shall provide the Advisory Committee with a complete list of the records described in subparagraph (A).

(6) If a record is deleted in whole or in part as a result of review under this subsection then a note to that effect shall be inserted at the appropriate place in the FRUS volume.

(Aug. 1, 1956, ch. 841, title IV, § 403, as added Pub. L. 102-138, title I, § 198(a), Oct. 28, 1991, 105 Stat. 686.)

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103-236, set out as a note under section 2651a of this title.

§ 4354. Declassification of State Department records

(a) Deadline for declassification

(1) Except as provided in subsection (b), each classified record of permanent historical value (as determined by the Secretary of State and the Archivist of the United States) which was published, issued, or otherwise prepared by the Department of State (or any officer or employee thereof acting in an official capacity) shall be declassified not later than 30 years after the record was prepared, shall be transferred to the National Archives and Records Administration, and shall be made available at the National Archives for public inspection and copying.

(2) Nothing in this subsection may be construed to require the declassification of a record wholly prepared by a foreign government.

(b) Exempted records

Subsection (a) shall not apply to any record (or portion thereof) the publication of which the Secretary of State, in coordination with any agency that originated information in the records, determines—

(1) would compromise weapons technology important to the national defense of the United States or reveal sensitive information

relating to the design of United States or foreign military equipment or relating to United States cryptologic systems or activities;

(2) would disclose the names or identities of living persons who provided confidential information to the United States and would pose a substantial risk of harm to such persons;

(3) would demonstrably impede current diplomatic negotiations or other ongoing official activities of the United States Government or would demonstrably impair the national security of the United States; or

(4) would disclose matters that are related solely to the internal personnel rules and practices of the Department of State or are contained in personnel, medical, or similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(c) Review

(1) The Advisory Committee shall review—

(A) the State Department's declassification procedures,

(B) all guidelines used in declassification, including those guidelines provided to the National Archives and Records Administration which are in effect on October 28, 1991, and

(C) by random sampling, records representative of all Department of State records published, issued, or otherwise prepared by the Department of State that remain classified after 30 years.

(2) In the event that the Secretary of State considers it necessary to deny access to records under paragraph (1)(C), the Secretary shall notify the Advisory Committee in writing, describing the nature of the records in question and the justification for withholding them.

(d) Annual reports by the Advisory Committee

The Advisory Committee shall annually submit to the Secretary of State and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report setting forth its findings from the review conducted under subsection (c).

(e) Annual reports by the Secretary

(1) In general

Not later than March 1 of each year, the Secretary shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on the compliance of the Department of State with the provisions of this chapter, including—

(A) the volumes published in the previous calendar year;

(B) the degree to which the Department is not in compliance with the deadline set forth in section 4351(c) of this title; and

(C) the factors relevant to the inability of the Department to comply with the provisions of this chapter, including section 4351(c) of this title.

(2) Form of reports

Each report required to be submitted by paragraph (1) shall be submitted in unclassified form, together with a classified annex if necessary.

(Aug. 1, 1956, ch. 841, title IV, § 404, as added Pub. L. 102-138, title I, § 198(a), Oct. 28, 1991, 105 Stat. 687; amended Pub. L. 107-228, div. A, title II, § 205, Sept. 30, 2002, 116 Stat. 1363.)

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-228, § 205(a), substituted “Annual reports by the Advisory Committee” for “Reporting requirement” in heading and inserted “and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives” after “Secretary of State” in text.

Subsec. (e). Pub. L. 107-228, § 205(b), substituted “Annual reports by the Secretary” for “Report to Congress” in heading and amended text generally. Prior to amendment, text read as follows: “Not later than 180 days after October 28, 1991, the Secretary of State shall prepare and submit a written report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on factors relevant to compliance with this section, and the procedures to be used for implementing the requirements of this section.”

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

COMPLIANCE WITH DECLASSIFICATION OF STATE DEPARTMENT RECORDS; NOTIFICATION TO CONGRESSIONAL COMMITTEES ON INABILITY TO COMPLY; FINAL DEADLINE

Pub. L. 102-138, title I, § 198(c)(1), Oct. 28, 1991, 105 Stat. 691, provided that: “The Secretary of State shall ensure that the requirements of section 404 of the State Department Basic Authorities Act of 1956 [22 U.S.C. 4354] (as amended by this section) are met not later than one year after the date of enactment of this Act [Oct. 28, 1991]. If the Secretary cannot reasonably meet the requirements of such section, he shall so notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, and describe how the Department of State intends to meet the requirements of that section. In no event shall full compliance with the requirements of such section take place later than 2 years after the date of enactment of this Act.”

§ 4355. Relationship to Privacy Act and Freedom of Information Act

(a) Privacy Act

Nothing in this chapter may be construed as requiring the public disclosure of records or portions of records protected under section 552a of title 5 (relating to the privacy of personal records).

(b) Freedom of Information Act

(1) Except as provided in paragraph (2), no record (or portion thereof) shall be excluded from publication in the FRUS series under section 4353 of this title, or exempted from the declassification requirement of section 4354 of this title, solely by virtue of the application of section 552(b) of title 5 (relating to the exemption of certain matters from freedom of information requirements).

(2) Records described in section 1202(f) of title 8 (relating to visa records) shall be excluded from publication in the FRUS series under section 4353 of this title and, to the extent applicable, exempted from the declassification requirement of section 4354 of this title.