§ 1045.42 Mandatory and Freedom of Information Act reviews for declassification of restricted data and formerly restricted data documents.

(a) General. (1) Agencies with documents containing RD and FRD shall respond to mandatory review and Freedom of Information Act (FOIA) requests for these documents from the public.

(2) In response to a mandatory review or Freedom of Information Act request, DOE or DoD may refuse to confirm or deny the existence or nonexistence of the requested information whenever the fact of its existence or nonexistence is itself classified as RD or FRD.

(b) Processing Requests. (1) Agencies shall forward documents containing RD to DOE for review.

(2) Agencies shall forward documents containing FRD to the DOE or to the DoD for review, depending on which is the originating agency.

(3) The DOE and DoD shall coordinate the review of RD and FRD documents as appropriate.

(4) The review and appeal process is that described in subpart D of this part except for the appeal authority. DOE and DoD shall not forward RD and FRD documents to the Interagency Security Classification Appeals Panel (ISCAP) for appeal review unless those documents also contain NSI. In such cases, the DOE or DoD shall delete the RD and FRD portions prior to forwarding the NSI and unclassified portions to the ISCAP for review.

(5) Information Declassification Actions resulting from appeal reviews. (i) Appeal reviews of RD or FRD documents shall be based on existing classification guidance. However, the Director of Classification shall review the RD and FRD information in the appealed document to determine if it may be a candidate for possible declassification.

(ii) If declassification of the information appears appropriate, the Director of Classification shall initiate a formal declassification action and so advise the requester.

(c) Denying Official. (1) The denying official for documents containing RD is the Director of Classification.