

§ 8.31

approved project. The applicant may review files or records containing classified information only in offices under the control of the Department. Procedures must be established to identify classified material to which the applicant is given access. The applicant must be briefed on local procedures established to prevent unauthorized access to the classified material while in the applicant's custody, for the return of the material for secure storage at the end of the daily working period, and for the control of the applicant's notes until they have been reviewed. In addition to the security review of the applicant's manuscript, the manuscript must be reviewed by appropriate offices to assure that it is technically accurate insofar as material obtained from the Department is concerned, and is consistent with the Department's public release policies.

(b) *Former Presidential appointees.* Persons who previously occupied policy-making positions to which they were appointed by the President may be granted access to classified information or material that they originated, reviewed, signed, or received, while in public office, provided that:

(1) It is determined that such access is clearly consistent with the interests of national security; and

(2) The person agrees to safeguard the information, to authorize a review of the person's notes to assure that classified information is not contained therein, and that the classified information will not be further disseminated or published.

§ 8.31 Industrial security.

(a) *Background.* The National Industrial Security Program was established by Executive Order 12829 of January 6, 1993 for the protection of information classified pursuant to Executive Order 12356 of April 2, 1982, National Security Information, or its predecessor or successor orders, and the Atomic Energy Act of 1954, as amended. The Secretary of Defense serves as the Executive Agent for inspecting and monitoring contractors, licensees, grantees, and certificate holders that require or will require access to, or that store or will store, classified information, and for

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determining the eligibility for access to classified information of contractors, licensees, certificate holders, and grantees, and their respective employees.

(b) *Implementing regulations.* The Secretary of Transportation has entered into agreement for the Secretary of Defense to render industrial security services for the Department of Transportation. Regulations prescribed by the Secretary of Defense to fulfill the provisions of Executive Order 12829 have been extended to protect release of classified information for which the Secretary of Transportation is responsible. Specifically, this regulation is DOD 5220.22-M, National Industrial Security Program Operating Manual. This regulation is effective within the Department of Transportation, which functions as a User Agency as prescribed in the regulation. Appropriate security staffs, project personnel, and contracting officers assure that actions required by the regulation are taken.

PART 9—TESTIMONY OF EMPLOYEES OF THE DEPARTMENT AND PRODUCTION OF RECORDS IN LEGAL PROCEEDINGS

Sec.

- 9.1 Purpose.
- 9.2 Applicability.
- 9.3 Definitions.
- 9.5 General prohibition of production or disclosure in legal proceedings.
- 9.7 Testimony by employees before the Department or in other legal proceedings in which the United States is a party.
- 9.9 Legal proceedings between private litigants: General rules.
- 9.11 Legal proceedings between private litigants: Demands.
- 9.13 Legal proceedings between private litigants: Procedures to request records.
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- 9.17 Legal proceedings between private litigants: Procedures for taking testimony.
- 9.19 Acceptance of service on behalf of Secretary.

AUTHORITY: 5 U.S.C. 301; 45 U.S.C. 41-42; 49 U.S.C. 322; 49 U.S.C. 504(f); 23 U.S.C. 409.

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