

SUBCHAPTER A—GENERAL

PART 1—INSIGNIA OF RANK

Sec.

- 1.1 Office of the Secretary of State.
- 1.2 Office of the Deputy Secretary of State.
- 1.3 Office of the Under Secretaries of State.

AUTHORITY: Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 2658.

§ 1.1 Office of the Secretary of State.

The official flag indicative of the office of Secretary of State shall be as follows: On a blue rectangular field a white disk bearing the official coat of arms of the United States adopted by the act of June 20, 1782, in proper colors. In each of the four corners a white five-pointed star with one point upward. The colors and automobile flag to be the same design, adding a white fringe. For the colors a cord and tassel of blue and white to be added. The sizes to be in accordance with military and naval customs.

[22 FR 10788, Dec. 27, 1957]

§ 1.2 Office of the Deputy Secretary of State.

The official flag indicative of the office of the Deputy Secretary of State shall be as follows: On a white rectangular field a blue disk bearing the official coat of arms of the United States adopted by act of June 20, 1782, in proper colors. In each of the four corners a five-pointed star with one point upward. The colors and automobile flag to be the same design, adding a blue fringe. For the colors a cord and tassel of white in accordance with military and naval customs.

[38 FR 30258, Nov. 2, 1973]

§ 1.3 Office of the Under Secretaries of State.

The official flag indicative of the office of the Under Secretaries of State shall be as follows: On a red rectangular field a white disk bearing the official coat of arms of the United States adopted by act of June 20, 1782, in proper colors. In each of the four corners a white five-pointed star with one point upward. The colors and automobile flag to be the same design, adding a white

fringe. For the colors a cord and tassel of white and red to be added. The sizes to be in accordance with military and naval customs.

[38 FR 30258, Nov. 2, 1973]

PART 2—PROTECTION OF FOREIGN DIGNITARIES AND OTHER OFFICIAL PERSONNEL

Sec.

- 2.1 Designation of personnel to carry firearms and exercise appropriate power of arrest.
- 2.2 Purpose.
- 2.3 Notification of foreign officials.
- 2.4 Designation of official guests.
- 2.5 Records.

§ 2.1 Designation of personnel to carry firearms and exercise appropriate power of arrest.

(a) The Deputy Assistant Secretary of State for Security is authorized to designate certain employees of the Department of State and the Foreign Service, as well as employees of other departments and agencies detailed to and under the supervision and control of the Department of State, as Security Officers, as follows.

(1) Persons so designated shall be authorized to carry firearms when engaged in the performance of the duties prescribed in section (1) of the act of June 28, 1955, 69 Stat. 188, as amended. No person shall be so designated unless he has either qualified in the use of firearms in accordance with standards established by the Deputy Assistant Secretary of State for Security, or in accordance with standards established by the department or agency from which he is detailed.

(2) Persons so designated shall also be authorized, when engaged in the performance of duties prescribed in section (1) of the act of June 28, 1955, 69 Stat. 188, as amended, to arrest without warrant and deliver into custody any person violating the provisions of section 111 or 112 of title 18, United States Code, in their presence or if they have reasonable grounds to believe that the person to be arrested has

§ 2.2

22 CFR Ch. I (4–1–18 Edition)

committed or is committing such felony.

(b) When the Under Secretary of State for Management determines that it is necessary, persons designated under paragraph (a) of this section shall be authorized to provide protection to an individual who has been designated by the President to serve as Secretary of State, prior to his appointment, or to a departing Secretary of State. In providing such protection, they are authorized to exercise the authorities described in paragraphs (a) (1) and (2) of section. Such protection shall be for the period or periods determined necessary by the Under Secretary of State for Management, except that in the case of a departing Secretary of State, the period of protection under this paragraph shall in no event exceed 30 calendar days from the date of termination of that individual's incumbency as Secretary of State.

(c) When the Under Secretary of State for Management determines that it is necessary, persons designated under paragraph (a) of this section shall be authorized to provide protection to a departing United States Representative to the United Nations. In providing such protection, they are authorized to exercise the authorities described in paragraphs (a) (1) and (2) of this section. Such protection shall be for the period or periods determined necessary by the Under Secretary of State for Management, except that the period of protection under this paragraph shall in no event exceed 30 calendar days from the date of termination of that individual's incumbency as United States Representative to the United Nations.

(Sec. 4, 63 Stat. 111, as amended, sec. 1, 69 Stat. 188; 22 U.S.C. 2658, 2666)

[29 FR 15571, Nov. 20, 1964, as amended at 47 FR 30480, July 14, 1982; 50 FR 14379, Apr. 12, 1985]

§ 2.2 Purpose.

Section 1116(b)(2) of title 18 of the United States Code, as added by Pub. L. 92-539, An Act for the Protection of Foreign Officials and Official Guests of the United States (86 Stat. 1071), defines the term "foreign official" for purposes of that Act as "any person of a foreign nationality who is duly noti-

fied to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee." Section 1116(c)(4) of the same Act defines the term "official guest" for the purposes of that Act as "a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State." It is the purpose of this regulation to specify the officer of the Department of State who shall be responsible for receiving notification of foreign officials under the Act and determining whether persons are "duly notified" to the United States and who shall be responsible for processing official guest designations by the Secretary of State.

(18 U.S.C. 1116(b)(2), 1116(c)(4); sec. 4 of the Act of May 26, 1949, as amended (22 U.S.C. 2658))

[37 FR 24817, Nov. 22, 1972]

§ 2.3 Notification of foreign officials.

(a) Any notification of a foreign official for purposes of section 1116(b)(2) of Title 18 of the United States Code shall be directed by the foreign government or international organization concerned to the Chief of Protocol, Department of State, Washington, DC 20520. For persons normally accredited to the United States in diplomatic or consular capacities and also for persons normally accredited to the United Nations and other international organizations and in turn notified to the Department of State, the procedure for placing a person in the statutory category of being "duly notified to the United States" shall be the current procedure for accreditation, with notification in turn when applicable. The Chief of the Office of Protocol will place on the roster of persons "duly notified to the United States" the names of all persons currently accredited and, when applicable, notified in turn, and will maintain the roster as part of the official files of the Department of State adding to and deleting therefrom as changes in accreditations occur.

Department of State

§ 3.2

(b) For those persons not normally accredited, the Chief of Protocol shall determine upon receipt of notification, by letter from the foreign government or international organization concerned, whether any person who is the subject of such a notification has been duly notified under the Act. Any inquiries by law enforcement officers or other persons as to whether a person has been duly notified shall be directed to the Chief of Protocol. The determination of the Chief of Protocol that a person has been duly notified is final.

(18 U.S.C. 1116(b)(2), 1116(c)(4); sec. 4 of the Act of May 26, 1949, as amended (22 U.S.C. 2658))

[37 FR 24818, Nov. 22, 1972]

§ 2.4 Designation of official guests.

The Chief of Protocol shall also maintain a roster of persons designated by the Secretary of State as official guests. Any inquiries by law enforcement officers or other persons as to whether a person has been so designated shall be directed to the Chief of Protocol. The designation of a person as an official guest is final. Pursuant to section 2658 of title 22 of the U.S.C., the authority of the Secretary of State to perform the function of designation of official guests is hereby delegated to the Chief of Protocol.

(22 U.S.C. 2658)

[45 FR 55716, Aug. 21, 1980]

§ 2.5 Records.

The Chief of Protocol shall maintain as a part of the official files of the Department of State a cumulative roster of all persons who have been duly notified as foreign officials or designated as official guests under this part. The roster will reflect the name, position, nationality, and foreign government or international organization concerned or purpose of visit as an official guest and reflect the date the person was accorded recognition as being "duly notified to the United States" or designated as an official guest and the

date, if any, of termination of such status.

(18 U.S.C. 1116(b)(2), 1116(c)(4); sec. 4 of the Act of May 26, 1949, as amended (22 U.S.C. 2658))

[37 FR 24818, Nov. 22, 1972]

PART 3—GIFTS AND DECORATIONS FROM FOREIGN GOVERNMENTS

Sec.

3.1 Purpose.

3.2 Authority.

3.3 Definitions.

3.4 Restriction on acceptance of gifts and decorations.

3.5 Designation of officials and offices responsible for administration of foreign gifts and decorations.

3.6 Procedure to be followed by employees in depositing gifts of more than minimal value and reporting acceptance of travel or travel expenses.

3.7 Decorations.

3.8 Approval of retention of gifts or decorations with employing agency for official use.

3.9 Disposal of gifts and decorations which become the property of the United States.

3.10 Enforcement.

3.11 Responsibility of chief of mission to inform host government of restrictions on employees' receipt of gifts and decorations.

3.12 Exemption of grants and other foreign government assistance in cultural exchange programs from coverage of foreign gifts and decorations legislation.

AUTHORITY: Sec. 515(a)(1), 91 Stat. 862, amending 5 U.S.C. 7342 (1976).

SOURCE: 45 FR 80819, Dec. 8, 1980, unless otherwise noted.

§ 3.1 Purpose.

These regulations provide basic standards for employees of the Department of State, the United States International Development Cooperation Agency (IDCA), the Agency for International Development (AID), and the International Communication Agency (USICA), their spouses (unless separated) and their dependents to accept and retain gifts and decorations from foreign governments.

§ 3.2 Authority.

(a) Section 515(a)(1) of the Foreign Relations Authorization Act of 1978 (91 Stat. 862-866), approved August 17, 1977,

§ 3.3

22 CFR Ch. I (4–1–18 Edition)

(hereafter referred to as “the Act”) amended section 7342 of title 5, U.S. Code (1976), making substantial changes in the law relating to the acceptance and retention of gifts and decorations from foreign governments.

(b) 5 U.S.C. 7342(g) authorizes each employing agency to prescribe regulations as necessary to carry out the new law.

§ 3.3 Definitions.

When used in this part, the following terms have the meanings indicated:

(a) *Employee* means (1) an officer or employee of the Department, AID, IDCA, or USICA, including an expert or consultant, however appointed, and (2) a spouse (unless separated) or a dependent of such a person, as defined in section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152).

(b) *Foreign government* means: (1) Any unit of foreign governmental authority, including any foreign national, State, local, or municipal government; (2) any international or multinational organization whose membership is composed of any unit of foreign government as described in paragraph (b)(1) of this section; (3) any agent or representative of any such unit or organization, while acting as such;

(c) *Gift* means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

(d) *Decoration* means an order, device, medal, badge, insignia, emblem or award tendered by, or received from, a foreign government;

(e) *Minimal value* means retail value in the United States at the time of acceptance of \$100 or less, except that on January 1, 1981, and at 3-year intervals thereafter, “minimal value” is to be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period.

§ 3.4 Restriction on acceptance of gifts and decorations.

(a) An employee is prohibited from requesting or otherwise encouraging the tender of a gift or decoration from a foreign government. An employee is

also prohibited from accepting a gift or decoration from a foreign government, except in accordance with these regulations.

(b) An employee may accept and retain a gift of minimal value tendered and received as a souvenir or mark of courtesy, subject, however, to the following restrictions—

(1) Where more than one tangible item is included in a single presentation, the entire presentation shall be considered as one gift, and the aggregate value of all items taken together must not exceed “minimal value”.

(2) The donee is responsible for determining that a gift is of minimal value in the United States at the time of acceptance. However, should any dispute result from a difference of opinion concerning the value of a gift, the employing agency will secure the services of an outside appraiser to establish whether the gift is one of “minimal value”. If, after an appraisal has been made, it is established that the value of the gift in question is \$200 or more at retail in the United States, the donee will bear the costs of the appraisal. If, however, the appraised value is established to be less than \$200, the employing agency will bear the costs.

(c) An employee may accept a gift of more than minimal value when (1) such gift is in the nature of an educational scholarship or medical treatment, or (2) it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States.

(d) An employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency. Except where the employing agency has specific interests which may be favorably affected by employee travel wholly outside the

United States, even though it would not normally authorize its employees to engage in such travel, the standards normally applied to determine when proposed travel will be in the best interests of the employing agency and of the United States Government shall be applied in approving acceptance of travel or travel expenses offered by a foreign government.

(1) There are two circumstances under which employees may accept gifts of travel or expenses:

(i) When the employee is issued official travel orders placing him or her in the position of accepting travel or travel expenses offered by a foreign government which are directly related to the authorized purpose of the travel; or

(ii) When the employee's travel orders specifically anticipate the acceptance of additional travel and travel expenses incident to the authorized travel.

(2) When an employee is traveling under circumstances described in paragraph (d)(1)(i) of this section, that is, without specific instructions authorizing acceptance of additional travel expenses from a foreign government, the employee must file a report with the employing agency under the procedures prescribed in § 3.6.

(e) Since tangible gifts of more than minimal value may not lawfully become the personal property of the donee, all supervisory officials shall, in advising employees of their responsibilities under the regulations, impress upon them their obligation to decline acceptance of such gifts, whenever possible, at the time they are offered, or to return them if they have been sent or delivered without a prior offer. All practical measures, such as periodic briefings, shall be taken to minimize the number of gifts which employees must deposit and which thus become subject to disposal as provided by law and regulation. Employees should not accept gifts of more than minimal value on the assumption that refusal would be likely to "cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States". In many instances it should be possible, by explanation of the prohibition against an employee's

retention of such gifts, to avoid consequences of acceptance, including possible return of the gift to the donor. Refusal of the gift at the inception should typically be regarded as in the interest both of the foreign government donor and the U.S. Government.

§ 3.5 Designation of officials and offices responsible for administration of foreign gifts and decorations.

(a) The Act effects a significant degree of decentralization of administration relative to the disposal of foreign gifts and decorations which become U.S. Government property. Each agency is now responsible for receiving from its employees deposits of foreign gifts of more than minimal value, as well as of foreign decorations not meeting the statutory criteria for retention by the recipient. The agency is also responsible for disposing of this property by return to the donor, for retaining it in the agency if official use of it is approved, for reporting to the General Services Administration within 30 calendar days after deposit items neither disposed of nor retained, and for assuming custody, proper care and handling of such property pending removal from that custody pursuant to disposal arrangements by the General Services Administration. The Secretary of State, however, is made responsible for providing guidance to other executive agencies in the development of their own regulations to implement the Act, as well as for the annual publication of lists of all gifts of more than minimal value deposited by Federal employees during the preceding year. [See § 3.5(c).] Authority for the discharge of the Secretary's responsibilities is delegated by these regulations to the Chief of Protocol.

(b) The Office of the Chief of Protocol retains primary responsibility for administration of the Act within the Department of State. That Office will, however, serve as the depository only for those foreign gifts and decorations which are turned in by State Department employees. The Director of Personnel Services of the USICA will have responsibility for administration of the Act within that agency and will serve as the depository of foreign gifts and decorations. Employees of the other

§ 3.6

22 CFR Ch. I (4-1-18 Edition)

foreign affairs agencies must deposit with their respective agencies any gifts or decorations deposit of which is required by law.

(c) Any questions concerning the implementation of these regulations or interpretation of the law should be directed to the following:

(1) For the Department of State, to the Office of Protocol or to the Office of the Assistant Legal Adviser for Management, as appropriate;

(2) For IDCA, to the Office of the General Counsel;

(3) For AID, to the Assistant General Counsel for Employee and Public Affairs; and

(4) For USICA, to the General Counsel.

§ 3.6 Procedure to be followed by employees in depositing gifts of more than minimal value and reporting acceptance of travel or travel expenses.

(a) An employee who has accepted a tangible gift of more than minimal value shall, within 60 days after acceptance, relinquish it to the designated depository office for the employing agency for disposal or, with the approval of that office, deposit it for official use at a designated location in the employing agency or at a specified Foreign Service post. The designated depository offices are:

(1) For the Department of State, the Office of Protocol;

(2) For IDCA, the General Services Division of the Office of Management Planning in AID;

(3) For AID, the General Services Division of the Office of Management Planning; and

(4) For USICA, the Office of Personnel Services.

(b) At the time that an employee deposits gifts of more than minimal value for disposal or for official use pursuant to paragraph (a) of this section, or within 30 days after accepting a gift of travel or travel expenses as provided in § 3.4(d) (unless the gift of such travel or travel expenses has been accepted in accordance with specific instructions from the Department or agency), the employee shall file a statement with the designated depository office with the following information:

(1) For each tangible gift reported:

(i) The name and position of the employee;

(ii) A brief description of the gift and the circumstances justifying acceptance;

(iii) The identity of the foreign government and the name and position of the individual who presented the gift;

(iv) The date of acceptance of the gift;

(v) The donee's best estimate in specific dollar terms of the value of the gift in the United States at the time of acceptance; and

(vi) Disposition or current location of the gift. (For State Department employees, forms for this purpose are available in the Office of Protocol.)

(2) For each gift of travel or travel expenses:

(i) The name and position of the employee;

(ii) A brief description of the gift and the circumstances justifying acceptance; and

(iii) The identity of the foreign government and the name and position of the individual who presented the gift.

(c) The information contained in the statements called for in paragraph (b) of this section is needed to comply with the statutory requirement that, not later than January 31 of each year, the Secretary of State publish in the FEDERAL REGISTER a comprehensive listing of all such statements filed by Federal employees concerning gifts of more than minimal value received by them during the preceding year.

§ 3.7 Decorations.

(a) Decorations tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance may be accepted, retained, and worn by an employee, subject to the approval of the employing agency. Without such approval, the decoration is deemed to have been accepted on behalf of the United States and, like tangible gifts of more than minimal value, must be deposited by the employee with the designated depository office for the employing agency within sixty days after acceptance, for retention for official use or for disposal in accordance with § 3.9.

Department of State

§ 3.9

(b) The decision as to whether a decoration has been awarded for outstanding or unusually meritorious performance will be made:

(1) For the Department of State, by the supervising Assistant Secretary of State or comparable official, except that, in the case of a decoration awarded to an Assistant Secretary or other officer of comparable or higher rank, the decision shall be made by the Office of Protocol;

(2) For IDCA, by the Assistant Director for Administration;

(3) For AID, by the Director of Personnel Management; and

(4) For USICA, by the Supervising Associate Director, the General Counsel, or the Director of the Office of Congressional and Public Liaison (for domestic employees), and by the Director of Area Offices (for overseas employees).

(c) To justify an affirmative decision, a statement from the foreign government, preferably in the form of a citation which shows the specific basis for the tender of the award, should be supplied. An employee who has received or been tendered a decoration should forward to the designated depository office of the employing agency a request for review of the case. This request should contain a statement of circumstances of the award and such documentation from the foreign government as has accompanied it. The depository office will obtain the decision of the cognizant office as to whether the award meets the statutory criteria and thus whether the decoration may be retained and worn. Pending receipt of that decision, the decoration should remain in the custody of the recipient.

§ 3.8 Approval of retention of gifts or decorations with employing agency for official use.

(a) At the request of an overseas post or an office within the employing agency, a gift or decoration deemed to have been accepted on behalf of the United States may be retained for official use. Such retention should be approved:

(1) For the Department of State, by the Chief of Protocol;

(2) For IDCA, by AID's Director of Management Operations;

(3) For AID, by the Director of Management Operations; and

(4) For USICA, by the Associate Director for Management.

However, to qualify for such approval, the gift or decoration should be an item which can be used in the normal conduct of agency business, such as a rug or a tea service, or an art object meriting display, such as a painting or sculpture. Personal gift items, such as wristwatches, jewelry, or wearing apparel, should not be regarded as suitable for "official use". Only under unusual circumstances will retention of a decoration for official use be authorized. Every effort should be made to place each "official use" item in a location that will afford the largest number of employees, and, if feasible, members of the public, the maximum opportunity to receive the benefit of its display, provided the security of the location is adequate.

(b) Items approved for official use must be accounted for and safeguarded as Federal property at all times under standard Federal property management procedures. Within 30 days after the official use of a gift has been terminated, the gift or decoration shall be deposited with the designated depository office of the employing agency to be held pending completion of disposal arrangements by the General Services Administration.

§ 3.9 Disposal of gifts and decorations which become the property of the United States.

(a) Gifts and decorations which have been reported to an employing agency shall either be returned to the donor or kept in safe storage pending receipt of instructions from the General Services Administration for transfer, donation or other disposal under the provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, and the Federal Property Management Regulations (41 CFR part 101-49). The employing agency shall examine each gift or decoration and the circumstances surrounding its donation and assess whether any adverse effect upon the foreign relations of the United States might result from a return of the gift (or decoration) to the donor, which shall be the preferred

§3.10

22 CFR Ch. I (4-1-18 Edition)

means of disposal. If this is not deemed feasible, the employing agency is required by GSA regulations to report deposit of the gift or decoration within 30 calendar days, using Standard Form 120, Report of Excess Personal Property and, as necessary, Standard Form 120A, Continuation Sheet, and citing section 7342 of title 5, U.S. Code (1976), on the reporting document. Such reports shall be submitted to the General Services Administration, Washington National Capital Region (WDPO), Attention: Federal Property Resources Service, Seventh and D Streets, SW., Washington, DC 20407.

(b) No gift or decoration deposited with the General Services Administration for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. When depositing gifts or decorations with the designated depository office of their employing agency, employees may indicate their interest in participating in any subsequent sale of the items by the Government. Before gifts and decorations may be considered for sale by the General Services Administration, however, they must first have been offered for transfer to Federal agencies and for donation to the States. Consequently, employees should understand that there is no assurance that an item will be offered for sale, or, if so offered, that it will be feasible for an employee to participate in the sale. Employees are reminded in this connection that the primary aim of the Act is to discourage employees' acceptance of gifts of more than minimal value.

§3.10 Enforcement.

(a) Each employing agency is responsible under the Act for reporting to the Attorney General cases in which there is reason to believe that one of its employees has violated the Act. The Attorney General in turn may file a civil action in any United States District Court against any Federal employee who has knowingly solicited or accepted a gift from a foreign government in violation of the Act, or who has failed to deposit or report such gift, as an Act required by the Act. In such case, the court may assess a maximum penalty

of the retail value of a gift improperly solicited or received, plus \$5,000.

(b) Supervisory officials at all levels within employing agencies shall be responsible for providing periodic reorientation of all employees under their supervision on the basic features of the Act and these regulations, and for ensuring that those employees observe the requirements for timely reporting and deposit of any gifts of more than minimal value they may have accepted.

(c) Employees are advised of the following actions which may result from failure to comply with the requirements of the Act and these regulations:

(1) Any supervisor who has substantial reason to believe that an employee under his or her supervision has violated the reporting or other compliance provisions of the Act shall report the facts and circumstances in writing to the senior official in charge of administration within the cognizant bureau or office or at the post abroad. If that official upon investigation decides that an employee who is the donee of a gift or is the recipient of travel or travel expenses has, through actions within the employee's control, failed to comply with the procedures established by the Act and these regulations, the case shall be referred to the Attorney General for appropriate action.

(2) In cases of confirmed evidence of a violation, whether or not such violation results in the taking of action by the Attorney General, the senior administrative official referred to in paragraph (c)(1) of this section as responsible for forwarding a violation report to the Attorney General shall institute appropriate disciplinary action against an employee who has failed to (i) Deposit tangible gifts within 60 days after acceptance, (ii) account properly for the acceptance of travel expenses or (iii) comply with the Act's requirements respecting disposal of gifts and decorations retained for official use.

(3) In cases where there is confirmed evidence of a violation, but no evidence that the violation was willful on the part of the employee, the senior administrative official referred to in paragraph (c)(1) of this section shall institute appropriate disciplinary action of a lesser degree than that called for in

Department of State

§ 3a.1

paragraph (c)(2) of this section in order to deter future violations by the same or another employee.

§ 3.11 Responsibility of chief of mission to inform host government of restrictions on employees' receipt of gifts and decorations.

A special provision of the Act requires the President to direct every chief of a United States diplomatic mission to inform the host government that it is a general policy of the United States Government to prohibit its employees from receiving gifts of more than minimal value or decorations that have not been tendered "in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance." Accordingly, all Chiefs of Mission shall in January of each year conduct a thorough and explicit program of orientation aimed at appropriate officials of the host government concerning the operation of the Act.

§ 3.12 Exemption of grants and other foreign government assistance in cultural exchange programs from coverage of foreign gifts and decorations legislation.

The Act specifically excludes from its application grants and other forms of assistance "to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies". See 22 U.S.C. 2558 (a) and (b) for the terms and conditions under which Congress consents to the acceptance by a Federal employee of grants and other forms of assistance provided by a foreign government to facilitate the participation of such employee in a cultural exchange.

PART 3a—ACCEPTANCE OF EMPLOYMENT FROM FOREIGN GOVERNMENTS BY MEMBERS OF THE UNIFORMED SERVICES

Sec.

3a.1 Definitions.

3a.2 Requirement for approval of foreign government employment.

3a.3 Authority to approve or disapprove proposed foreign government employment.

3a.4 Procedure for requesting approval.

3a.5 Basis for approval or disapproval.

3a.6 Notification of approval.

3a.7 Notification of disapproval and reconsideration.

3a.8 Change in status.

AUTHORITY: Sec. 509, 91 Stat. 859 (37 U.S.C. 801 Note); sec. 4, as amended, 63 Stat. 111 (22 U.S.C. 2658).

SOURCE: 43 FR 55393, Nov. 28, 1978, unless otherwise noted.

§ 3a.1 Definitions.

For purposes of this part—

(a) *Applicant* means any person who requests approval under this part to accept any civil employment (and compensation therefor) from a foreign government and who is: (1) Any retired member of the uniformed services;

(2) Any member of a Reserve component of the Armed Forces; or

(3) Any member of the commissioned Reserve Corps of the Public Health Service.

The term "applicant" also includes persons described in paragraph (a)(1), (2), or (3) of this section, who have already accepted foreign government employment and are requesting approval under this part to continue such employment.

(b) *Uniformed services* means the Armed Forces, the commissioned Regular and Reserve Corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(c) *Armed Forces* means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(d) *Secretary concerned* means: (1) The Secretary of the Army, with respect to retired members of the Army and members of the Army Reserve;

(2) The Secretary of the Navy, with respect to retired members of the Navy and the Marine Corps, members of the Navy and Marine Corps Reserves, and retired members of the Coast Guard and members of the Coast Guard Reserve when the Coast Guard is operating as a service in the Navy;

(3) The Secretary of the Air Force, with respect to retired members of the Air Force and members of the Air Force Reserve;

(4) The Secretary of Transportation, with respect to retired members of the Coast Guard and members of the Coast

§ 3a.2

Guard Reserve when the Coast Guard is not operating as a service in the Navy;

(5) The Secretary of Commerce, with respect to retired members of the commissioned corps of the National Oceanic and Atmospheric Administration; and

(6) The Secretary of Health, Education, and Welfare, with respect to retired members of the commissioned Regular Corps of the Public Health Service and members of the commissioned Reserve Corps of the Public Health Service.

§ 3a.2 Requirement for approval of foreign government employment.

(a) The United States Constitution (Article I, section 9, clause 8) prohibits the acceptance of civil employment with a foreign government by an officer of the United States without the consent of Congress. Congress has consented to the acceptance of civil employment (and compensation therefor) by any person described in § 3a.1(b) subject to the approval of the Secretary concerned and the Secretary of State (37 U.S.C. 801, Note). Civil employment with a foreign government may not be accepted without such approval by any person so described.

(b) The Secretary of State has no authority to approve employment with a foreign government by any officer of the United States other than a person described in § 3a.1(a). The acceptance of employment with a foreign government by any other officer of the United States remains subject to the constitutional prohibition described in paragraph (a) of this section.

(c) Any person described in § 3a.1(a) who accepts employment with a foreign government without the approval required by this section or otherwise obtaining the consent of Congress is subject to forfeiture of retired pay to the extent of his or her compensation from the foreign government, according to the Comptroller General of the United States (44 Comp. Gen. 139 (1964)). This forfeiture is in addition to any other penalty which may be imposed under law or regulation.¹

¹Approval under this part does not constitute an exception to the provisions of the Immigration and Nationality Act concerning

22 CFR Ch. I (4-1-18 Edition)

§ 3a.3 Authority to approve or disapprove proposed foreign government employment.

The Director, Bureau of Politico-Military Affairs, is authorized to approve or disapprove any request by an applicant for approval under this part to accept civil employment (and compensation therefor) from a foreign government. The Director may delegate this authority within the Bureau of Politico-Military Affairs, Department of State.

§ 3a.4 Procedure for requesting approval.

(a) An applicant must submit a request for approval of foreign government employment to the Secretary concerned, whose approval is also required by law for the applicant's acceptance of civil employment from a foreign government. The request must contain information concerning the applicant's status, the nature of the proposed employment in as much detail as possible, the identity of and relationship to the foreign government concerned, and other matters as may be required by the Secretary concerned.

(b) Requests approved by the Secretary concerned will be referred to the Director, Bureau of Politico-Military Affairs, for approval. Requests received by the Director, Bureau of Politico-Military Affairs, directly from an applicant will be initially forwarded to the Secretary concerned, or his designee, for approval of disapproval.

§ 3a.5 Basis for approval or disapproval.

Decisions by the Director, Bureau of Politico-Military Affairs, under this part shall be based on whether the applicant's proposed employment with a foreign government would adversely affect the foreign relations of the United States, in light of the applicant's official status as a retiree or reservist.

loss of United States citizenship, for example, by becoming a citizen of or taking an oath of allegiance to another country. See 8 U.S.C. 1481 *et seq.*

Department of State

§ 4.2

§ 3a.6 Notification of approval.

The Director, Bureau of Politico-Military Affairs, will notify the Secretary concerned when an applicant's proposed foreign government employment is approved. Notification of approval to the applicant will be made by the Secretary concerned or his designee.

§ 3a.7 Notification of disapproval and reconsideration.

(a) The Director, Bureau of Politico-Military Affairs, will notify the applicant directly when an applicant's proposed foreign employment is disapproved, and will inform the Secretary concerned.

(b) Each notification of disapproval under this section must include a statement of the reasons for the disapproval, with as much specificity as security and foreign policy considerations permit, together with a notice of the applicant's right to seek reconsideration of the disapproval under paragraph (c) of this section.

(c) Within 60 days after receipt of the notice of disapproval, an applicant whose request has been disapproved may submit a request for reconsideration by the Director, Bureau of Politico-Military Affairs. A request for reconsideration should provide information relevant to the reasons set forth in the notice of disapproval.

(d) The disapproval of a request by the Director, Bureau of Politico-Military Affairs, will be final, unless a timely request for reconsideration is received. In the event of a request for reconsideration, the Director, Bureau of Politico-Military Affairs, will make a final decision after reviewing the record of the request. A final decision after reconsideration to approve the applicant's proposed employment with a foreign government will be communicated to the Secretary concerned as provided in § 3a.6. A final decision after reconsideration to disapprove the applicant's proposed employment with a foreign government will be communicated directly to the applicant as provided in paragraph (a) of this section and the Secretary concerned will be informed. The Director's authority to make a final decision after reconsideration may not be redelegated.

§ 3a.8 Change in status.

In the event that an applicant's foreign government employment approved under this part is to be materially changed, either by a substantial change in duties from those described in the request upon which the original approval was based, or by a change of employer, the applicant must obtain further approval in accordance with this part for such changed employment.

PART 4—NOTIFICATION OF FOREIGN OFFICIAL STATUS

Sec.

4.1 General.

4.2 Procedure.

AUTHORITY: 22 U.S.C. 2651a(a)(4).

SOURCE: 61 FR 32328, June 24, 1996, unless otherwise noted.

§ 4.1 General.

In accordance with Article 10 of the Vienna Convention on Diplomatic Relations and Article 24 of the Vienna Convention on Consular Relations, diplomatic missions must notify the Office of Protocol immediately upon the arrival, in the United States, of any foreign government officer or employee (including domestics and family members), who are serving at diplomatic missions, consular posts, or miscellaneous foreign government offices. If the employee is already in the United States in some other capacity, the notification should be made upon assumption of duties. This initial notification requirement also includes all U.S. citizens and permanent resident aliens who are employed by foreign missions.

§ 4.2 Procedure.

Notification and subsequent changes are made as follows:

(a) Diplomatic and career consular officers and their dependents: Form DSP-110, *Notification of Appointment of Foreign Diplomatic Officer and Career Consular Officer*;

(b) All other foreign government employees who are serving at diplomatic missions, consular posts, or miscellaneous foreign government offices and

their dependents: Form DSP-111, *Notification of Appointment of Foreign Government Employee*.

(c) Honorary consular officers: Form DSP-112, *Notification of Appointment of Honorary Consular Officer*.

(d) Missions should use Form DSP-113, *Notification of Change—Identification Card Request*, to promptly inform the Department of State of any change in the status of officers or employees of the missions and their family members originally reported to Protocol, or to apply for an identification card.

(e) Upon termination of employment of any diplomatic or consular officer, honorary consular officer, embassy or consular employee, or miscellaneous foreign government staff member, a Form DSP-115, *Notice of Termination of Diplomatic, Consular, or Foreign Government Employment*, must be submitted to the Office of Protocol.

PART 5—ORGANIZATION

Sec.

5.1 Introduction.

5.2 Central and field organization, established places at which, the officers from whom, and the methods whereby the public may secure information, make submittals, or request, or obtain decisions; and statements of the general course and method by which its functions are channeled and determined.

5.3 Rules of procedure, description of forms available or the places at which forms may be obtained, and instructions as to the scope and content of all papers, reports, or examinations.

5.4 Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretation of general applicability formulated and adopted by the agency.

AUTHORITY: Sec. 4, 63 Stat. 111, as amended, sec. 501, 65 Stat. 290; 22 U.S.C. 2658, 31 U.S.C. 483a, 5 U.S.C. 552, E.O. 10501; 18 FR 7049; 3 CFR, 1949-1953 Comp., page 979.

SOURCE: 33 FR 7078, May 11, 1968, unless otherwise noted.

§ 5.1 Introduction.

The sections in this part 5 are issued pursuant to section 3 of the Administrative Procedure Act, 5 U.S.C. 552, effective July 4, 1967.

§ 5.2 Central and field organization, established places at which, the officers from whom, and the methods whereby the public may secure information, make submittals, or request, or obtain decisions; and statements of the general course and method by which its functions are channeled and determined.

(a) The following statements of the central and field organization of the Department of State and its Foreign Service posts are hereby prescribed:

(1) The central organization of the Department of State was issued as Public Notice No. 267, 32 FR 8923, June 22, 1967.

(2) The foreign field organization of the Department of State was issued as Public Notice No. 254, 32 FR 3712, March 3, 1967.

(3) The domestic field organization of the Department of State was issued as Public Notice No. 268, 32 FR 8925, June 22, 1967.

(b) As used in the following sections, the term "Department of State" includes all offices within the Department in Washington, its domestic field offices in the United States, all Foreign Service posts throughout the world, and U.S. missions to international organizations unless otherwise specified.

(c) Any person desiring information concerning a matter handled by the Department of State, or any person desiring to make a submittal or request in connection with such a matter, should communicate either orally or in writing with the appropriate office. If the office receiving the communication does not have jurisdiction to handle the matter, the communication, if written, will be forwarded to the proper office, or, if oral, the person will be advised how to proceed. When the submittal or request consists of a formal application for one of the documents, privileges, or other benefits provided for in the laws administered by the Department of State, or in the regulations implementing these laws, the instructions on the form as to preparation and place of submission should be followed. In such cases, the provisions of this part referring to the particular regulation concerned should be consulted.

Department of State

§ 5.4

§ 5.3 Rules of procedure, description of forms available or the places at which forms may be obtained, and instructions as to the scope and content of all papers, reports, or examinations.

Rules of procedure regarding the following listed matters may be consulted

under the corresponding regulations referenced in § 5.4, or obtained upon application to the offices listed below. Forms pertaining to the following listed matters, and instructions relating thereto may also be obtained at the offices indicated below:

| Subject matter | Office | Address |
|---|---|---|
| Appointment of Foreign Service Officers. | Board of Examiners for the Foreign Service. | Department of State, Room 7314, 1800 N. Kent St., Arlington, Va. 22209. |
| Authentication and other services ... | Document and Reference Division. | Department of State, Room 2815, 22d and D Sts. NW., Washington, DC 20520. |
| Claims and stolen property | Legal Adviser | Department of State, 2201 C Street NW., Washington, DC 20520. |
| International educational and cultural exchange program. | Bureau of Educational and Cultural Affairs. | Department of State, 2201 C Street NW., Washington, DC 20520. |
| International traffic in arms | Office of Munitions Control | Department of State, Room 800, 1700 N. Lynn St., Arlington, Va. 22209. |
| Nationality and passports | Passport Office | Department of State, Room 362, 1425 K St., NW., Washington, DC 20524. |
| Protection and welfare of U.S. citizens, shipping and seamen, and other consular services abroad. | Office of Special Consular Services. | Department of State, 2201 C Street NW., Washington, DC 20520. |
| Visa issuance | Visa Office | Department of State, Annex 2, 515 22d Street NW., Washington, DC 20520. |

§ 5.4 Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretation of general applicability formulated and adopted by the agency.

(a) The regulations of the Department of State required to be published under the provisions of the Administrative Procedure Act are found in the Code of Federal Regulations and the FEDERAL REGISTER. Any person desiring information with respect to a particular procedure should examine the pertinent regulation cited hereafter.

(b) The following are citations to regulations within the scope of this section.

- (1) Acceptance of Gifts and Decorations from Foreign Governments. 22 CFR part 3 *et seq.*
- (2) Employee Responsibility and Conduct. 22 CFR part 10 *et seq.*
- (3) Appointment of Foreign Service Officers. 22 CFR part 11 *et seq.*
- (4) Fees for Services in the United States, fees and Charges, Foreign service. 22 CFR part 21 *et seq.*; 22 CFR part 22 *et seq.*
- (5) Claims and Stolen Property. 22 CFR part 31 *et seq.*
- (6) Issuance of Visas. 22 CFR parts 41-42 *et seq.*

(7) Nationality and Passports. 22 CFR part 50 *et seq.*

(8) International Educational and Cultural Exchanges. 22 CFR part 61 *et seq.*

(9) Protection and Welfare of Americans Abroad. 22 CFR part 71 *et seq.*

(10) Shipping and Seamen Abroad. 22 CFR part 81 *et seq.*

(11) Other Consular Services Abroad. 22 CFR part 91 *et seq.*

(12) Economic, Commercial and Civil Air Functions Abroad. 22 CFR part 101 *et seq.*

(13) International Traffic in Arms. 22 CFR part 121 *et seq.*

(14) Certificates of Authentication. 22 CFR part 131 *et seq.*

(15) Civil Rights. 22 CFR part 141 *et seq.*

(16) Department of State Procurement. 41 CFR part 6-1 *et seq.*

(c) These regulations are supplemented from time to time by amendments appearing initially in the FEDERAL REGISTER.

PART 7 [RESERVED]

PART 9—SECURITY INFORMATION REGULATIONS

Sec.

- 9.1 Basis.
- 9.2 Objective.
- 9.3 Senior agency official.
- 9.4 Original classification.
- 9.5 Original classification authority.
- 9.6 Derivative classification.
- 9.7 Identification and marking.
- 9.8 Classification challenges.
- 9.9 Declassification and downgrading.
- 9.10 Mandatory declassification review.
- 9.11 Systematic declassification review.
- 9.12 Sharing other-agency classified information.
- 9.13 Access to classified information by historical researchers and certain former government personnel.
- 9.14 Pre-publication review of writings by former Department personnel.
- 9.15 Assistance to the Historian's Office.
- 9.16 Safeguarding.

AUTHORITY: E.O. 13526 (75 FR 707, January 5, 2010); Information Security Oversight Office Directive 32 CFR part 2001 (75 FR 37254, June 28, 2010).

SOURCE: 79 FR 35936, June 25, 2014, unless otherwise noted.

§ 9.1 Basis.

The regulations in this part, taken together with 32 CFR part 2001 and Volume 5 of the Department's Foreign Affairs Manual, provide the basis for the security classification program of the U.S. Department of State ("the Department") implementing Executive Order 13526 on Classified National Security Information ("the Executive Order" or "the Order").

§ 9.2 Objective.

The objective of the Department's classification program is to ensure that national security information is protected from unauthorized disclosure, but that it remains classified only to the extent and for such a period as is necessary.

§ 9.3 Senior agency official.

The Executive Order requires that each agency that originates or handles classified information designate a Senior Agency Official to direct and administer its information security program. The Department's senior agency official is the Under Secretary of State for Management. The Senior Agency

Official is assisted in carrying out the provisions of the Executive Order and the Department's information security program by the Assistant Secretary for Diplomatic Security, the Assistant Secretary for Administration, and the Deputy Assistant Secretary for Global Information Services.

§ 9.4 Original classification.

(a) *Definition.* Original classification is the initial determination that certain information requires protection against unauthorized disclosure in the interest of national security (*i.e.*, national defense or foreign relations of the United States), together with a designation of the level of classification.

(b) *Classification levels.* (1) Top Secret shall be applied to information the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security that the original classification authority is able to identify or describe.

(2) Secret shall be applied to information the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security that the original classification authority is able to identify or describe.

(3) Confidential shall be applied to information the unauthorized disclosure of which reasonably could be expected to cause damage to the national security that the original classification authority is able to identify or describe.

(c) *Classification requirements and considerations.* (1) Information may not be considered for classification unless its unauthorized disclosure could reasonably be expected to cause identifiable or describable damage to the national security in accordance with section 1.2 of the Executive Order, and it pertains to one or more of the following:

- (i) Military plans, weapons systems, or operations;
- (ii) Foreign government information;
- (iii) Intelligence activities (including covert action), intelligence sources or methods, or cryptology;
- (iv) Foreign relations or foreign activities of the United States, including confidential sources;

Department of State

§ 9.5

(v) Scientific, technological, or economic matters relating to the national security;

(vi) United States Government programs for safeguarding nuclear materials or facilities;

(vii) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security; or

(viii) The development, production, or use of weapons of mass destruction.

(2) In classifying information, the public's interest in access to government information must be balanced against the need to protect national security information.

(3) The unauthorized disclosure of foreign government information is presumed to cause damage to national security.

(d) *Classification limitations and prohibitions.* (1) In no case shall information be classified in order to conceal violations of law, inefficiency, or administrative error, or to prevent embarrassment to a person, organization, or agency, to restrain competition, or to prevent or delay the release of information that does not require protection in the interest of the national security.

(2) A reference to classified documents that does not directly or indirectly disclose classified information may not be classified or used as a basis for classification.

(3) Only information owned by, produced by or for, or under the control of the U.S. Government may be originally classified.

(e) *Duration of classification.* (1) Information shall be classified for as long as is required by national security considerations, subject to the limitations set forth in section 1.5 of the Executive Order. When it can be determined, a specific date or event for declassification in less than 10 years shall be set by the original classification authority at the time the information is originally classified. If a specific date or event for declassification cannot be determined, information shall be marked for declassification 10 years from the date of the original decision, unless the original classification authority determines that the sensitivity of the information requires that it be marked for

declassification for up to 25 years from the date of the original decision except for:

(i) Information that would reveal the identity of a confidential human source or a human intelligence source, or key design concepts of weapons of mass destruction, in which case the duration of classification shall be up to 75 years and shall be designated with the markings "50X1-HUM" and "50X2-WMD," respectively; and

(ii) Specific information incorporated into the classification guide under section 2.2(e) of the Executive Order relating to exemptions from automatic declassification.

(2) An original classification authority may extend the duration of classification up to 25 years from the date of origin of the document, change the level of classification, or reclassify specific information only when the standards and procedures for classifying information under the Executive Order are met.

(3) No information may remain classified indefinitely. Information marked for an indefinite duration of classification under predecessor orders, such as "Originating Agency's Determination Required" (OADR) or classified information that contains incomplete declassification instructions or lacks declassification instructions, shall be declassified in accordance with Part 3 of the Order.

§ 9.5 Original classification authority.

(a) Authority for original classification of information as Top Secret may be exercised by the Secretary and those officials delegated this authority in writing by the Secretary. Such authority has been delegated to the Deputy Secretaries, the Under Secretaries, the Counselor, Assistant Secretaries and equivalents; Chiefs of Mission and U.S. representatives to international organizations; and certain other officers within the Department and at posts abroad.

(b) Authority for original classification of information as Secret or Confidential may be exercised only by the Secretary, the Senior Agency Official, and those officials delegated this authority in writing by the Secretary or

§9.6

the Senior Agency Official. Such authority has been delegated to Deputy Assistant Secretaries, Principal Officers at consulates general and consulates abroad, and certain other officers within the Department and at posts abroad. In the absence of the Secret or Confidential classification authority, the person designated to act for that official may exercise that authority.

§9.6 Derivative classification.

(a) *Definition.* Derivative classification is: the incorporating, paraphrasing, restating, or generating in new form information that is already classified and the marking of the new material consistent with the classification of the source material, or the marking of the information in accordance with an authorized classification guide. Duplication or reproduction of existing classified information is not derivative classification. Persons who apply classification markings derived from source material or as directed by a classification guide need not possess original classification authority.

(b) *Responsibility.* Information classified derivatively from other classified information shall be classified and marked in accordance with instructions from an authorized classifier or in accordance with an authorized classification guide and shall comply with the standards set forth in sections 2.1-2.2 of the Executive Order and 32 CFR 2001.22. The duration of classification of a document classified by a derivative classifier using a classification guide shall not exceed 25 years except for:

(1) Information that would reveal the identity of a confidential human source or a human intelligence source (50X1-HUM) or key design concepts of weapons of mass destruction (50X2-WMD), and

(2) Specific information incorporated into the classification guide under section 2.2(e) of the Executive Order relating to exemptions from automatic declassification.

(c) *Department of State Classification Guide.* The Department of State Classification Guide (DSCG) is the primary authority for the classification of information in documents created by De-

22 CFR Ch. I (4-1-18 Edition)

partment of State personnel. The Guide is classified "Confidential" and is found on the Department of State's classified Web site.

§9.7 Identification and marking.

(a) Classified information shall be marked pursuant to the standards set forth in section 1.6 of the Executive Order, 32 CFR part 2001, subpart C, and internal Department guidance in 5 Foreign Affairs Manual.

(b) Foreign government information shall retain its original classification markings or be marked and classified at a U.S. classification level that provides a degree of protection at least equivalent to that required by the entity that furnished the information. Foreign government information retaining its original classification markings need not be assigned a U.S. classification marking provided the responsible agency determines that the foreign government markings are adequate to meet the purposes served by U.S. classification markings.

(c) Information assigned a level of classification under predecessor executive orders shall be considered as classified at that level of classification despite the omission of other required markings.

(d) Prior to public release, all declassified records shall be appropriately marked to reflect their declassification.

§9.8 Classification challenges.

(a) *Challenges.* Authorized holders of information pertaining to the Department of State who believe that its classification status is improper are expected and encouraged to challenge the classification status of the information. Such persons making challenges to the classification status of information shall not be subject to retribution for such action. Informal, usually oral, challenges are encouraged. Formal challenges to classification actions shall be in writing to an original classification authority (OCA) with jurisdiction over the information and a copy of the challenge shall be sent to the Office of Information Programs and Services (IPS) of the Department of State, SA-2, 515 22nd St. NW., Washington, DC 20522-8100. The Department (either the

OCA or IPS) shall provide an initial response in writing within 60 calendar days.

(b) *Appeal procedures and time limits.* A negative response may be appealed to the Department's Appeals Review Panel (ARP) and should be sent to: Chairman, Appeals Review Panel, c/o Director, Office of Information Programs and Services/Appeals Officer, at the IPS address given above. The appeal shall include a copy of the original challenge, the response, and any additional information the appellant believes would assist the ARP in reaching its decision. The ARP shall respond within 90 calendar days of receipt of the appeal. A negative decision by the ARP may be appealed to the Interagency Security Classification Appeals Panel (ISCAP) referenced in section 5.3 of Executive Order 13526. If the Department fails to respond to a formal challenge within 120 calendar days or if the ARP fails to respond to an appeal within 90 calendar days, the challenge may be sent directly to the ISCAP.

(c) *Pre-publication review materials.* The provisions for classification challenges do not apply to material required to be submitted for pre-publication review, or other administrative action, pursuant to a non-disclosure agreement.

§ 9.9 Declassification and downgrading.

(a) *Declassification processes.* Declassification of classified information may occur:

(1) After review of material in response to a Freedom of Information Act (FOIA) request, mandatory declassification review request, discovery request, subpoena, classification challenge, or other information access or declassification request;

(2) After review as part of the Department's systematic declassification review program;

(3) As a result of the elapse of the time or the occurrence of the event specified at the time of classification;

(4) By operation of the automatic declassification provisions of section 3.3 of the Executive Order with respect to material more than 25 years old.

(b) *Downgrading.* When material classified at the Top Secret level is re-

viewed for declassification and it is determined that classification continues to be warranted, a determination shall be made whether downgrading to a lower level of classification is appropriate. If downgrading is determined to be warranted, the classification level of the material shall be changed to the appropriate lower level.

(c) *Authority to downgrade and declassify.* (1) Classified information may be downgraded or declassified by:

(i) The official who originally classified the information if that official is still serving in the same position and has original classification authority;

(ii) A successor in that capacity if that individual has original classification authority;

(iii) A supervisory official of either if the supervisory official has original classification authority;

(iv) Other Department officials specifically delegated declassification authority in writing by the Secretary or the Senior Agency Official; or

(v) The Director of the Information Security Oversight Office pursuant to Sec. 3.1(a) of E.O. 13526.

(2) The Department shall maintain a record of Department officials specifically designated as declassification and downgrading authorities.

(d) *Declassification in the public interest.* Although information that continues to meet the classification criteria of the Executive Order or a predecessor order normally requires continued protection, in some exceptional cases the need to protect information may be outweighed by the public interest in disclosure of the information. When such a question arises, it shall be referred to the Secretary or the Senior Agency Official for decision on whether, as an exercise of discretion, the information should be declassified and disclosed. This provision does not amplify or modify the substantive criteria or procedures for classification or create any substantive or procedural right subject to judicial review.

(e) *Public disclosure of declassified information.* Declassification of information is not, by itself, authorization for its public disclosure. Previously classified information that is declassified may be exempt from public disclosure under the FOIA, the Privacy Act, or

various statutory confidentiality provisions. There also may be treaties or other international agreements that would preclude public disclosure of declassified information.

§9.10 Mandatory declassification review

(a) *Scope.* All information classified under E.O. 13526 or predecessor orders shall be subject to mandatory declassification review upon request by a member of the public or a U.S. government employee or agency with the following exceptions:

(1) Information originated by the incumbent President or the incumbent Vice President; the incumbent President's White House staff or the incumbent Vice President's staff; committees, commissions, or boards appointed by the incumbent President; other entities within the Executive Office of the President that solely advise and assist the incumbent President;

(2) Information that is the subject of pending litigation; and

(3) Information that has been reviewed for declassification within the past two years which need not be reviewed again, but the requester shall be given appeal rights.

(b) *Requests.* Requests for mandatory declassification review should be addressed to the Office of Information Programs and Services, U.S. Department of State, SA-2, 515 22nd St. NW., Washington, DC 20522-8100.

(c) *Description of information.* In order to be processed, a request for mandatory declassification review must describe the document or the material containing the information sought with sufficient specificity to enable the Department to locate the document or material with a reasonable amount of effort. Whenever a request does not sufficiently describe the material, the Department shall notify the requester that no further action will be taken unless additional description of the information sought is provided.

(d) *Refusal to confirm or deny existence of information.* The Department may refuse to confirm or deny the existence or nonexistence of requested information whenever the fact of existence or nonexistence is itself classified.

(e) *Processing.* In responding to mandatory declassification review requests, the Department shall make a review determination as promptly as possible, but in no case more than one year from the date of receipt of the request, and notify the requester accordingly. When the requested information cannot be declassified in its entirety, the Department shall release all meaningful portions that can be declassified and that are not exempt from disclosure on other grounds.

(f) *Other agency information.* When the Department receives a request for information in its possession that was originally classified by another agency, it shall refer the request and the pertinent information to the other agency unless that agency has agreed that the Department may review such information for declassification on behalf of that agency. In any case, the Department is responsible for responding to the requester with regard to any responsive information, including other-agency information, unless a prior arrangement has been made with the originating agency.

(g) *Foreign government information.* In the case of a request for material containing foreign government information, the Department shall determine whether the information may be declassified and may, if appropriate, consult with the relevant foreign government on that issue. If the Department is not the agency that initially received the foreign government information, it may consult with the original receiving agency.

(h) *Documents or material containing RD or Transclassified Foreign Nuclear Information (TFNI).* Documents or material containing RD or TFNI will be submitted to DOE for review. Documents containing FRD will be submitted to DOE or DoD for review.

(i) *Appeals.* Any denial of a mandatory declassification review request may be appealed to the ARP. A denial by the ARP of a mandatory declassification review appeal may be further appealed to the ISCAP. A failure of the Department to make a determination on a mandatory declassification review request within one year from the date of its receipt or to respond to an appeal

Department of State

§9.13

of a denial by the ARP within 180 calendar days of its receipt may be appealed directly to the ISCAP.

§9.11 Systematic declassification review.

The Director of the Office of Information Programs and Services shall be responsible for conducting a program for systematic declassification review of historically valuable records that: were exempted from the automatic declassification provisions of section 3.3 of the Executive Order; or will soon become subject to the automatic declassification provisions of section 3.3 of the Order. The Director shall prioritize such review in accordance with priorities established by the National Declassification Center.

§9.12 Sharing other-agency classified information.

The long-standing third-agency rule has required prior originating agency approval before a receiving agency could further disseminate classified information. Under the Executive Order, unless the originating agency indicates on the material that prior approval is required and provided that the criteria for access under section 4.1(a) of the Order are met, a receiving agency may further disseminate classified information in documents created subsequent to the effective date of the Order to another agency or U.S. entity without consultation with the originating agency. "U.S. entity" includes cleared state, local, tribal, and private sector entities. Similarly, under certain circumstances, receiving agencies may pass such classified information to foreign governments.

§9.13 Access to classified information by historical researchers and certain former government personnel.

(a) The restriction in E.O. 13526 and predecessor orders on limiting access to classified information to individuals who have a need-to-know the information may be waived, under the conditions set forth below, for persons who: are engaged in historical research projects; have served as President or Vice President; have occupied senior policy-making positions in the Department of State or other U.S. govern-

ment agencies to which they were appointed or designated by the President or the Vice President. It does not include former Foreign Service Officers as a class or persons who merely received assignment commissions as Foreign Service Officers, Foreign Service Reserve Officers, Foreign Service Staff Officers, and employees.

(b) Requests by such persons must be submitted in writing to the Office of Information Programs and Services at the address set forth above and must include a general description of the records sought, the time period covered by the records that are the subject of the request, and an explanation why access is sought. Requests for access by such requesters may be granted if:

(1) The Secretary or the Senior Agency Official determines in writing that access is consistent with the interests of national security;

(2) The requester agrees in writing to safeguard the information from unauthorized disclosure or compromise;

(3) The requester submits a statement in writing authorizing the Department to review any notes and manuscripts created as a result of access;

(4) The requester submits a statement in writing that any information obtained from review of the records will not be disseminated without the express written permission of the Department;

(c) If a requester uses a research assistant, the requester and the research assistant must both submit a statement in writing acknowledging that the same access conditions set forth in paragraphs (b)(2) through (b)(4) of this section apply to the research assistant. Such a research assistant must be working for the applicant and not gathering information for publication on his or her own behalf.

(d) Access granted under this section shall be limited to items the official originated, reviewed, signed, or received while serving as a Presidential or Vice Presidential appointee or designee or as President or Vice President.

(e) Such requesters may seek declassification and release of material to which they have been granted access under this section through either the

§9.14

FOIA or the mandatory declassification review provisions of E.O. 13526. Such requests shall be processed in the order received, along with other FOIA and mandatory declassification review requests, and shall be subject to the fees applicable to FOIA requests.

§9.14 Pre-publication review of writings by former Department personnel.

The Department provides pre-publication review of writings on foreign relations topics by former Department personnel, including contractors and detailees, who had security clearances to try to ensure that former personnel do not violate their agreements on non-disclosure of classified national security information in such writings. Manuscripts (including articles, speeches, books, etc.) should be sent to the Director, Office of Information Programs and Services, 515 22nd St. NW., Washington, DC 20522-8100. Questions about pre-publication clearance may be sent to *Classification@state.gov*.

§9.15 Assistance to the Historian's Office.

All elements of the Department shall assist the Historian's Office in its preparation of the Foreign Relations of the United States (FRUS) series such as by providing prompt access to and, when possible, declassification of information deemed appropriate for inclusion in the FRUS.

§9.16 Safeguarding.

Specific controls on the use, processing, storage, reproduction, and transmittal of classified information within the Department to provide protection for such information and to prevent access by unauthorized persons are contained in Volume 12 of the Department's Foreign Affairs Manual.

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

Sec.

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

22 CFR Ch. I (4–1–18 Edition)

- 9a.2 General policy.
- 9a.3 Scope.
- 9a.4 Classification.
- 9a.5 Declassification and downgrading.
- 9a.6 Marking.
- 9a.7 Access.
- 9a.8 Physical protection.

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.

(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."

Department of State

§ 9a.7

§ 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. Where participants are acting as representatives of companies or of the IEA Secretariat, such information and material may be made available for review to employees or other representatives of, or counsel for, such companies or Secretariat: *Provided*, That such person is determined by an appropriate officer of the Department to be trustworthy and to have a need for access to the particular classified information sought in connection with the performance of duties in furtherance of the

§9a.8

purposes of the IEA, including the furnishing of legal advice to such participants.

(d) Such information and material classified "Confidential" may be left in the custody of such participants or other persons who may review it for reasonable period of time: *Provided*, That an appropriate officer of the Department determines that it will be protected from unauthorized disclosure by adequate security safeguards. Such information or material may not be reproduced by those permitted to review it pursuant to this section without the written consent of an officer of the Department with classifying authority.

(e) Such information and material classified other than "Confidential" under E.O. 11652 may be made available for review only to participants in the meeting in which it was developed or discussed; it must be reviewed in the presence of an official of the United States Government with an appropriate security clearance granted by the Department, and may not be left in the custody of such participants.

§9a.8 Physical protection.

Except as provided in §9a.7, the physical protection of information or material classified under this regulation shall be governed by the appropriate provisions of 22 CFR 9.45 through 9.49.

PART 9b—REGULATIONS GOVERNING DEPARTMENT OF STATE PRESS BUILDING PASSES

Sec.

- 9b.1 Press access to the Department of State.
- 9b.2 Press correspondents employed by United States media organizations.
- 9b.3 Press correspondents employed by foreign media organizations.
- 9b.4 Department of State building press pass for technical crews.
- 9b.5 Temporary Department of State press building passes.
- 9b.6 Grounds for denial, revocation, or non-renewal of Department of State press building passes.
- 9b.7 Procedures for denial, revocation, or non-renewal of Department of State press building passes.
- 9b.8 Term and renewal of Department of State press building passes.

AUTHORITY: 22 U.S.C. 2658.

22 CFR Ch. I (4-1-18 Edition)

SOURCE: 49 FR 4465, Feb. 7, 1984, unless otherwise noted.

§9b.1 Press access to the Department of State.

(a) Media correspondents without valid Department of State press building passes shall have access to the Main State building identical to that enjoyed by members of the public.

(b) Media correspondents holding valid Department of State press building passes:

(1) May enter and have access 24 hours a day, during regular working hours, outside regular working hours, on weekends and on holidays, without an appointment, to the reception area of the Diplomatic Lobby, C Street Mezzanine area, press booths (Room 2310), press briefing room (Room 2118), and when in operation, the Office of Press Relations (Room 2109).

(2) May enter and have access without an appointment, on the basement level or on the first and second floors, to the cafeteria, post office, banks, concessionaries, barber shop, dry cleaners and the Foreign Affairs Recreation Association offices for the purposes for which they are established and when they are in operation.

(3) May not escort non-passholders into the Department of State building.

(c) Media correspondents, with or without a Department of State press building pass, may enter areas above the second floor of the Main State building only if the correspondent is invited by a Department employee to attend a specific social or official function in an office located above the second floor. Permission to enter areas above the second floor is strictly limited to direct passage to and from the appointment location of the Department of State employee, or the office or reception room where the function takes place.

(d) Possession of State Department press building pass does not confer access to or other privileges at other Federal buildings. It is not to be construed as official United States Government recognition, approval or accreditation of a correspondent.

[54 FR 1686, Jan. 17, 1989]

Department of State

§ 9b.3

§ 9b.2 Press correspondents employed by United States media organizations.

In order to obtain a Department of State press building pass, press correspondents employed by United States media organizations must:

(a) Present to the Office of Press Relations, Department of State, a letter from his or her organization stating:

(1) That the applicant is a bona fide, full-time media correspondent based permanently and residing in the Washington, DC, metropolitan area;

(2) That the applicant is employed by the certifying organization;

(3) That the organization and the applicant have regular and substantial assignments in connection with the Department of State as evidence by regular attendance at the daily press briefings.

(b) Submit to the Office of Press Relations, Department of State, Washington, DC 20520, a signed application and FORM DSP-97 for a press building pass. Applicants must comply with instructions contained in paragraphs 1 and 6 of FORM DSP-97 regarding fingerprinting and prior arrests. FORM DSP-97 requires the following information:

(1) Name;

(2) Affiliation with news media organizations;

(3) Date of birth;

(4) Place of birth;

(5) Sex;

(6) Citizenship;

(7) Social Security or passport number;

(8) Marital status;

(9) Spouse name;

(10) Office address and telephone number;

(11) Length of employment;

(12) Home address and telephone number; and

(13) Length of residence.

[49 FR 4465, Feb. 7, 1984, as amended at 54 FR 1686, Jan. 17, 1989]

§ 9b.3 Press correspondents employed by foreign media organizations.

In order to obtain a Department of State press building pass, correspondents employed by foreign media organizations must:

(a) Present to the Office of Press Relations, Department of State, Washington, DC 20520 a letter from his or her organization stating:

(1) That the applicant is a bona fide, full-time media correspondent based permanently and residing in the Washington, DC, metropolitan area;

(2) That the applicant is employed by the certifying organization;

(3) That the organization and the applicant have regular and substantial assignments in connection with the Department of State as evidence by regular attendance at the daily press briefings.

(b) A letter from the Washington, DC Embassy of the nation where the organization is headquartered or from the Embassy of the United States in the nation where the organization is headquartered attesting to the existence of the news organization and the applicant's employment by that organization. The Director of the Office of Press Relations may accept a letter from another source attesting to the existence of such news organizations and the applicant's employment if, in his or her judgment, a substitute letter is warranted.

(c) Submit to the Office of Press Relations, Department of State, Washington, DC 20520 a signed application and FORM DSP-97 for a press building pass. Applicants must comply with instructions contained in paragraphs 1 and 6 of FORM DSP-97 regarding fingerprinting and prior arrests. FORM DSP-97 requires the following information:

(1) Name;

(2) Affiliation with news media organizations;

(3) Date of birth;

(4) Place of birth;

(5) Sex;

(6) Citizenship;

(7) Social Security or passport number;

(8) Marital status;

(9) Spouse name;

(10) Office address and telephone number;

(11) Length of employment;

(12) Home address and telephone number; and

§9b.4

(13) Length of residence.

[49 FR 4465, Feb. 7, 1984, as amended at 54 FR 1687, Jan. 17, 1989]

§9b.4 Department of State building press pass for technical crews.

Department of State press building passes are issued to members of television and radio technical crews who provide technical support on a daily basis for media correspondents assigned to the Department of State. Members of technical crews who do not possess press passes, but who provide technical support for media correspondents assigned to the Department of State, may apply to the Office of Press Relations for a visitor's pass valid for one day.

[54 FR 1687, Jan. 17, 1989]

§9b.5 Temporary Department of State press building passes.

A media correspondent or technician who meets all the qualifications stated in §§9b.2(a)(1) and 9b.2(a)(2) or §§9b.3(a) and 9b.3(b), but does not have regular and substantial assignments in connection with the Department of State may make arrangements with the Office of Press Relations for the issuance of a visitor's pass valid for one day.

[54 FR 1687, Jan. 17, 1989]

§9b.6 Grounds for denial, revocation, or non-renewal of Department of State press building passes.

In consultation with the Bureau of Diplomatic Security and the Office of the Legal Adviser, the Director of the Office of Press Relations of the Department of State, may deny, revoke, or not renew the Department of State press building pass of any media correspondent or technician who:

(a) Does not meet the qualifications stated in §§9b.2(a)(1), 9b.2(a)(2) and 9b.2(a)(3) or §§9b.3(a)(1), 9b.3(a)(2), 9b.3(a)(3) and 9b.3(b). (Upon denial, revocation, or non-renewal the correspondent or technician may not re-apply for a period of one year unless there are material changes in meeting the qualifications.) or,

(b) Poses a risk of harm to the personal safety of Department of State or other Governmental personnel or to Government property; or

22 CFR Ch. I (4-1-18 Edition)

(c) Engages or engaged in conduct which there are reasonable grounds to believe might violate federal or state law or Department of State regulations.

(d) Has been convicted of a felony (or a crime in a foreign country that would be considered a felony if it were committed in the United States).

(e) Fails to claim an approved authorization form for a State Department press building pass after notification by the Office of Press Relations following a period of three (3) months.

[49 FR 4465, Feb. 7, 1984, as amended at 54 FR 1687, Jan. 15, 1989]

§9b.7 Procedures for denial, revocation, or non-renewal of Department of State press building passes.

(a) If the Director of the Office of Press Relations, Department of State, anticipates, after consultation with the Office of the Legal Adviser, that in applying the standard set forth in §9b.6 a Department of State press building pass might be denied, revoked or not renewed, the media correspondent or technician will be notified in writing by the Director of the basis for the proposed denial in as much detail as the security of any confidential source of information will permit. This notification will be sent by registered mail.

(b) The notification of the proposed denial, revocation or non-renewal sent to the correspondent will also contain a statement advising the correspondent of his or her right to respond to the proposed denial and to rebut any factual basis supporting the proposed denial.

(c) The correspondent shall be allowed thirty (30) days from the date of the mailing of the proposed denial, revocation or non-renewal notification to respond in writing. The response shall consist of any explanation or rebuttal deemed appropriate by the correspondent and will be signed by the correspondent under oath or affirmation.

(d) If the correspondent is unable to prepare a response within 30 days, an extension for one additional 30-day period will be granted upon receipt of the correspondent's written request for such an extension.

Department of State

§9b.8

(e) At the time of the filing of the media correspondent's or technician's written response to the notification of the proposed denial, revocation or non-renewal, the correspondent or technician may request, and will be granted, the opportunity to make a personal appearance before the Director of the Office of Press Relations, Department of State, for the purpose of personally supporting his/her eligibility for a press pass and to rebut or explain the factual basis for the proposed denial. The Director shall exercise, in consultation with the Bureau of Diplomatic Security and the Office of the Legal Adviser, final review authority in the matter. The correspondent or technician may be represented by counsel during this appearance.

(f)(1) On the basis of the correspondent's or technician's written and personal response and the factual basis for the proposed denial, revocation or non-renewal, the Director of the Office of Press Relations, Department of State, will consult with the Bureau of Diplomatic Security and the Office of the Legal Adviser to determine whether or not further inquiry or investigation concerning the issues raised is necessary.

(2) If a decision is made that no such inquiry is necessary, a final decision will be issued in conformity with paragraph (g) of this section.

(3) If a decision is made that such further inquiry is necessary, the Director of the Office of Press Relations of the Department of State, the Bureau of Diplomatic Security and the Office of the Legal Adviser will conduct such further inquiry as is deemed appropriate. At the Director's discretion the inquiry may consist of:

(i) The securing of documentary evidence:

(ii) Personal interviews:

(iii) An informal hearing:

(iv) Any combination of paragraphs (f)(3)(i) through (f)(3)(iii) of this section.

(g) On the basis of the correspondent's or technician's written and personal response, the factual basis for the

proposed denial and the additional inquiry provided for if such inquiry is conducted, the Director of the Office of Press Relations of the Department of State will consult with the Bureau of Diplomatic Security and the Office of the Legal Adviser and expeditiously reach a final decision in accordance with the standard set forth in §9b.6. If a final adverse decision is reached, the correspondent or technician will be notified of this final decision in writing. This notification will set forth as precisely as possible, and to the extent that security considerations permit, the factual basis for the denial in relation to the standard set forth in §9b.6. This notification will be sent by registered mail and will be signed by the Director of the Office of Press Relations of the Department of State.

[49 FR 4465, Feb. 7, 1984, as amended at 54 FR 1687, Jan. 17, 1989]

§9b.8 Term and renewal of Department of State press building passes.

(a) Department of State press building passes for U.S. citizens are issued with three years' validity. Subject to positive completion of an international background check, passes for non-U.S. citizens are issued with one year's validity and may be renewed for three years. Notwithstanding its initial validity, any press building pass that has not been used for a twelve-month period, as recorded by the Bureau of Diplomatic Security's turnstyle entry devices, will become invalid at the end of that twelve-month period.

(b) For any valid passes issued before October 1, 1995, notification shall be sent by the Department of State to the holder of the pass that the pass has become invalid by reason of lack of use for 12-month period. However, failure of the holder for any reason to receive such a notification shall not affect the invalidity of the pass. Anyone whose pass has become invalid may apply for a new pass in accordance with §§9b.2 through 9b.5.

[61 FR 3800, Feb. 2, 1996]