

of Labor, or the employees or their representatives.

## PART 14—SECURITY REGULATIONS

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AUTHORITY: E.O. 12356 of April 2, 1982 (47 FR 14874).

SOURCE: 50 FR 51391, Dec. 17, 1985, unless otherwise noted.

### Subpart A—Introduction to Security Regulations

#### § 14.1 Purpose.

These regulations implement Executive Order 12356, entitled National Security Information, dated April 2, 1982, and directives issued pursuant to that Order through the National Security Council and the Atomic Energy Act of 1954, as amended.

#### § 14.2 Policy.

The interests of the United States and its citizens are best served when information regarding the affairs of Government is readily available to the public. Provisions for such an informed citizenry are reflected in the Freedom of Information Act (5 U.S.C. 552) and in the current public information policies of the executive branch.

(a) *Safeguarding national security information.* Some official information within the Federal Government is directly concerned with matters of national defense and the conduct of for-

eign relations. This information must, therefore, be subject to security constraints, and limited in term of its distribution.

(b) *Exemption from public disclosure.* Official information of a sensitive nature, hereinafter referred to as national security information, is expressly exempted from compulsory public disclosure by Section 552(b)(1) of title 5 U.S.C. Persons wrongfully disclosing such information are subject to prosecution under United States criminal laws.

(c) *Scope.* To ensure that national security information is protected, but only to the extent and for such a period as is necessary, these regulations:

(1) Identify information to be protected.

(2) Prescribe procedures on classification, declassification, downgrading, and safeguarding of information.

(3) Establish a monitoring system to ensure the effectiveness of the Department of Labor (DOL) security program and regulations.

(d) *Limitation.* The need to safeguard national security information in no way implies an indiscriminate license to withhold information from the public. It is important that the citizens of the United States have access, consistent with national security, to information concerning the policies and programs of their Government.

#### § 14.3 DOL Classification Review Committee.

A DOL Classification Review Committee is hereby established.

(a) Composition of committee. The members of this Committee are:

Chairperson—Deputy Assistant Secretary for Security and Emergency Management, OASAM.

Member—Administrative Officer, Office of the Solicitor.

Member—Director, Office of Foreign Relations, Bureau of International Labor Affairs.

Advisor—DOL Document Security Officer.

(b) *Responsibilities.* The Committee is responsible for:

(1) Acting on all suggestions and complaints arising with respect to the DOL's information security program.

(2) Reviewing all requests for records under the Freedom of Information Act,

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5 U.S.C. 552, when a proposed denial is based on classification under Executive Order 12356 to determine if such classification is current.

(3) Recommending to the Secretary of Labor appropriate administrative actions to correct abuses or violations of any provision of Executive Order 12356 or directives thereunder. Recommended administrative actions may include notification by warning letter, formal reprimand, and, to the extent permitted by law, suspension without pay and removal. Upon receipt of any such recommendation, the Secretary shall immediately advise the Committee of the action taken.

[50 FR 51391, Dec. 17, 1985, as amended at 72 FR 37098, July 9, 2007]

### § 14.4 Definitions.

The following definitions apply under these regulations:

(a) *Primary organization unit*—refers to an agency headed by an official reporting to the Secretary or Deputy Secretary.

(b) *Classify*—to assign information to one of the classification categories after determining that the information requires protection in the interest of national security.

(c) *Courier*—an individual designated by appropriate authority to protect classified and administratively controlled information in transit.

(d) *Custodian*—the person who has custody or is responsible for the custody of classified information.

(e) *Declassify*—the authorized removal of an assigned classification.

(f) *Document*—any recorded information regardless of its physical form or characteristics, including (but not limited to):

(1) Written material—(whether handwritten, printed or typed).

(2) Painted, drawn, or engraved material.

(3) Sound or voice recordings.

(4) Printed photographs and exposed or printed films (either still or motion picture).

(5) Reproductions of the foregoing, by whatever process.

(g) *Downgrade*—to assign lower classification than that previously assigned.

(h) *Derivative classification*—a determination that information is in substance the same as information that is currently classified. It is to incorporate, paraphrase, restate or generate in new form information that is already classified (usually by another Federal agency).

(i) *Information Security Oversight Office (ISOO)*—an office located in the National Archives and Records Administration (GSA) that monitors the implementation of E.O. 12356.

(j) *Marking*—the physical act of indicating the assigned security classification on national security information.

(k) *Material*—any document, product, or substance on or in which information is recorded or embodied.

(l) *Nonrecord material*—extra copies and duplicates, the use of which is temporary, including shorthand notes, used carbon paper, preliminary drafts, and other material of similar nature.

(m) *Paraphrasing*—a restatement of the text without alteration of its meaning.

(n) *Product and substance*—any item of material (other than a document) in all stages of development, processing, or construction and including elements, ingredients, components, accessories, fixtures, dies, models, and mockup associated with such items.

(o) *Record material*—all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the U.S. Government in connection with the transaction of public business; this includes material preserved by an agency or its legitimate successor as evidence of its organization, functions, policies, decisions, procedures, or other activities, or because of the informational data contained herein.

(p) *True reading*—the paraphrased literal text.

(q) *Upgraded*—to assign a higher classification than that previously assigned.

[50 FR 51391, Dec. 17, 1985, as amended at 72 FR 37098, July 9, 2007]

## Subpart B—Review of Classified Information

### § 14.10 Mandatory review for declassification.

(a) *Scope of review.* The mandatory review procedures apply to information originally classified by the DOL when it had such authority, i.e., before December 1, 1978. Requests may come from members of the public or a government employee or agency. The procedures do not apply to information originated by other agencies and merely held in possession of the DOL. Requests for disclosure submitted under provisions of the Freedom of Information Act are to be processed in accordance with provisions of that Act.

(b) *Where requests should be directed.* Requests for mandatory review for declassification should be directed to the Department of Labor, Office of the Assistant Secretary for Administration and Management (OASAM), Washington, DC 20210. Requests should be in writing and should reasonably describe the classified information to allow identification. Whenever a request does not reasonably describe the information sought, the requestor will be notified that unless additional information is provided or the scope of the request is narrowed, no further action will be undertaken.

(c) *Processing.* The OASAM will assign the request for information to the appropriate DOL office for declassification consideration. A decision will be made within 60 days as to whether the requested information may be declassified and, if so, made available to the requestor. If the information may not be released in whole or in part, the requestor will be given a brief statement as to the reasons for denial, and a notice of the right to appeal the determination to the DOL Classification Review Committee, Office of the Assistant Secretary for Administration and Management, Washington, DC 20210. The requestor is to be told that such an appeal must be filed with the DOL within 60 days.

(d) *Appeals procedure.* The DOL Classification Review Committee will review and act within 30 days on all applications and appeals for the declassification of information. The Com-

mittee is authorized to overrule on behalf of the Secretary, Agency determinations in whole or in part, when it decides that continued protection is not required. It will notify the requestor of the declassification and provide the information. If the Committee determines that continued classification is required, it will promptly notify the requestor and provide the reasons for the determination.

(e) *Burden of proof.* In evaluating requests for declassification the DOL Classification Review Committee will require the DOL office having jurisdiction over the document to prove that continued classification is warranted.

(f) *Fees.* If the request requires a service for which fair and equitable fees may be charged pursuant to title 5 of the Independent Office Appropriation Act, 31 U.S.C. 483a (1976), the requestor will be notified and charged.

## Subpart C—Transmission of Classified Information

### § 14.20 Dissemination to individuals and firms outside the executive branch.

Request for classified information received from sources outside the executive branch of the Federal Government, provided the information has been originated by the DOL, will be honored in accordance with the following guidelines:

(a) *Top Secret information.* All requests for Top Secret information by an individual or firm outside the executive branch must be referred promptly to the OASAM for consideration on an individual basis.

(b) *Secret and Confidential information.* Subject to the restrictions below, Secret or Confidential information may be furnished to an individual or firm outside the executive branch if the action furthers the official program of the organization unit in which the information originated. The official furnishing such information must ensure that the individuals to whom the information is to be furnished have the appropriate DOL clearance, or at least clearance for the same or higher classification for another Federal department, or outside agency whose security clearances are acceptable to the DOL.

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The official must also ensure that the person to whom the classified information is being furnished possess the proper facilities for safeguarding such information. No Secret or Confidential information may be furnished to an individual or firm outside the executive branch without written concurrence from the primary organizational unit head or the Security Officer of that unit.

(c) *Unauthorized knowledge of classified information.* Upon receipt of a request for classified information which raised a suspicion that an individual or organization outside the executive branch has unauthorized knowledge of the existence of Confidential, Secret, or Top Secret information, a report providing all available details must be immediately submitted to the DOL Document Security Officer for appropriate action and disposition.

(d) *Requests from outside the United States.* All requests from outside the United States for Top Secret, Secret or Confidential information, except those received from foreign offices of the primary organizational unit or from U.S. embassies or similar missions, will be referred to the Deputy Under Secretary for International Labor Affairs.

(e) *Access by historical researchers.* Individuals outside the executive branch engaged in historical research may be authorized access to classified information over which the DOL has jurisdiction provided:

(1) The research and need for access conform to the requirements of section 4-3 of Executive Order 12356.

(2) The information requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(3) The researcher agrees to safeguard the information in a manner consistent with E.O. 12356 and directives thereunder.

(4) The researcher agrees to a review of the notes and manuscript to determine that no classified information is contained therein.

Authorization for access is valid for the period required but no longer than two years from the date of issuance unless it is renewed under the conditions and regulations governing its original authorization.

(f) *Access by former presidential appointees.* Individuals who have previously occupied policymaking positions to which they were appointed by the President may be authorized access to classified information which they originated, reviewed, signed, or received while in public office. Upon request, information identified by such individuals will be reviewed for declassification in accordance with the provisions of these regulations.

[50 FR 51391, Dec. 17, 1985, as amended at 72 FR 37098, July 9, 2007]

### § 14.21 Release of classified information to foreign governments.

National security information will be released to foreign governments in accordance with the criteria and procedures stated in the President's Directive entitled "Basic Policy Governing the Release of Classified Defense Information to Foreign Governments" dated September 25, 1958. All requests for the release of such information will be referred to the Deputy Under Secretary for International Labor Affairs.

[50 FR 51391, Dec. 17, 1985, as amended at 72 FR 37098, July 9, 2007]

### § 14.22 Availability of classified information to persons not employed by the Department of Labor.

(a) *Approval for access.* Access to classified information in the possession or custody of the primary organizational units of the Department by individuals who are not employees of the executive branch shall be approved in advance by the DOL Document Security Officer.

(b) *Access to Top Secret material.* Access to Top Secret Information within the primary organizational units of the DOL by employees of other Federal agencies must be approved in advance by the Top Secret Control Officer of the primary organizational unit.

(c) *Access to Secret and Confidential information.* Secret and Confidential information may be made available to properly cleared employees of other Federal departments or outside agencies if authorized by the primary organizational units having custody of the information.