

purpose. Each administration shall advise the Director of Investigations and Security of classified material under its cognizance which is or becomes 30 years old. This notification shall also include recommendations for protection of the material considered to warrant continued classification in order that a determination by the Secretary may be obtained.

§ 8.21 Burden of proof.

For the purpose of determinations to be made under §§ 8.13, 8.15, and 8.17, the burden of proof is on the originating element to show that continued classification is warranted.

§ 8.23 Classified material transferred to the Department of Transportation.

(a) Classified material officially transferred to the Department pursuant to statute or Executive order in conjunction with a transfer of function, and not merely for storage purposes, shall be considered to have been originated by the Department for the purpose of downgrading and declassification.

(b) Classified material in the custody of the Department originated by a department or agency which has ceased to exist and whose functions and records were not officially transferred to another department shall be downgraded and declassified by the Department in accordance with the provisions of this part. If it appears that another department or agency may have an interest in the subject matter of the material from a classification standpoint, that department shall be advised of the nature of the material and the intention to downgrade or declassify. The notified department shall be allowed 30 days in which to express an objection, if it so desires, before action is taken. A difference of opinion which cannot be resolved shall be referred to the Departmental Security Review Committee which will consult with its counterpart committee for the respective department.

§ 8.25 Public availability of declassified information.

(a) It is a fundamental policy of the Department to make information

available to the public to the maximum extent permitted by law. Information which is declassified for any reason loses its status as material protected in the interest of national security. Accordingly, declassified information shall be handled in every respect on the same basis as all other unclassified information. Declassified information is subject to the Departmental public information policies and procedures, with particular reference to regulations of the Office of the Secretary on public availability of information (part 7 of this subtitle) and the Freedom of Information Act (5 U.S.C. 552).

(b) In furtherance of this policy, all classified material produced after June 1, 1972, which is of sufficient historical or other value to warrant preservation as permanent records in accordance with appropriate records administrative standards, and which becomes declassified, shall be systematically reviewed prior to the end of each calendar year for the purpose of making the material publicly available. To the maximum extent possible without destroying the integrity of the Department's files, all such material shall be segregated or set aside for public release upon request.

§ 8.27 Access to historical researchers, former Presidential appointees and contractors.

(a) *Historical researchers.* (1) Persons outside the executive branch who are engaged in historical research projects may have access to classified information provided that:

(i) Access to the information will be clearly consistent with the interests of national security; and

(ii) The person to be granted access is trustworthy.

(2) The provisions of this paragraph apply only to persons who are conducting historical research as private individuals or under private sponsorship and do not apply to research conducted under Government contract or sponsorship. The provisions are applicable only to situations where the classified information concerned, or any part of it, was originated by the Department or Department contractors, or where the information, if originated elsewhere, is in the sole custody of the Department.