§ 27.330 Prohibition on ex parte communications during proceedings.

(a) At no time after the designation of a Presiding Officer for a Proceeding and prior to the issuance of a Final Decision pursuant to §27.345 with respect to a facility or other person, shall the appointed Presiding Officer, or any person who will advise that official in the decision on the matter, discuss ex parte the merits of the proceeding with any interested person outside the Department, with any Department official who performs a prosecutorial or investigative function in such proceeding or a factually related proceeding, or with any representative of such person.

(b) If, after appointment of a Presiding Officer and prior to the issuance of a Final Decision pursuant to §27.345 with respect to a facility or other person, the appointed Presiding Officer, or any person who will advise that official in the decision on the matter, receives from or on behalf of any party, by means of an ex parte communication, information which is relevant to the decision of the matter and to which other parties have not had an opportunity to respond, a summary of such information shall be served on all other parties, who shall have an opportunity to reply to the ex parte communication within a time set by the Presiding Officer.

(c) The consideration of classified information or CVI pursuant to an in camera procedure does not constitute a prohibited ex parte communication for purposes of this subpart.

§ 27.325 Burden of proof.

The Assistant Secretary bears the initial burden of proving the facts necessary to support the challenged administrative action at every proceeding instituted under this subpart.

§ 27.330 Summary decision procedures.

(a) The Presiding Officer appointed for each Proceeding shall immediately consider whether the summary adjudication of the Application for Review is appropriate based on the Application for Review, the Response, and all the supporting filings of the parties pursuant to §§27.310(b)(5) and 27.310(c).