

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified

Maps are available for inspection at the City of Poplar Bluff, 114 Elm Street, Poplar Bluff, Missouri.  
 Send comments to The Honorable Ron Black, Mayor, City of Poplar Bluff, P.O. Box 460, Poplar Bluff, Missouri 63902.

Oklahoma .....	Adair County (Unincorporated Areas).	Caney Creek .....	Approximately 3,900 feet downstream of confluence with Spring Tributary.	None	*976
			Approximately 1,600 feet upstream of County Road.	None	*1,042
			Approximately 1,850 feet upstream of County Road.	None	*1,044
			Approximately 5,500 feet upstream of confluence with Eighth Street Tributary.	None	*1,059
			Approximately 1,600 feet upstream of Oklahoma Avenue.	None	*1,118
			Eighth Street Tributary .....	At confluence with Caney Creek .....	None
		Approximately 150 feet downstream of Eighth Street.	None	*1,068	
		Master Drain Tributary .....	At confluence with Caney Creek .....	None	*1,050

Maps are available for inspection at the Adair County Courthouse, Stilwell, Oklahoma.  
 Send comments to The Honorable Darryll Wilson, Chairperson, Adair County Board of Commissioners, P.O. Box 169, Stilwell, Oklahoma 74960.

Oklahoma .....	Stilwell (City) Adair County.	Caney Creek .....	Approximately 3,000 feet downstream of Olive Street (at the corporate limits).	None	*1,042
			Approximately 2,700 feet downstream of Olive Street (at the corporate limits).	None	*1,044
			Approximately 700 feet downstream of Olive Street (at the corporate limits).	None	*1,059
			Just downstream of Elm Street .....	None	*1,085
			Just upstream of Oklahoma Avenue (at the corporate limits).	None	*1,118
			Eighth Street Tributary .....	Approximately 350 feet downstream of Eighth Street (at the corporate limits).	None
		Approximately 100 feet downstream of Eighth Street (at the corporate limits).	None	*1,068	

Maps are available for inspection at the City Clerk's Office, 503 West Division, Stilwell, Oklahoma.  
 Send comments to The Honorable Neil Morton, Mayor, City of Stilwell, 503 West Division, Stilwell, Oklahoma 74960.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: June 25, 1996.

Richard W. Krimm,

Acting Associate Director for Mitigation.

[FR Doc. 96-16698 Filed 6-28-96; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**49 CFR Parts 1 and 8**

[Docket No. OST-96-1427; Notice 96-16]

RIN: 2105-AC51

**Classified Information; Revision**

**AGENCY:** Department of Transportation (DOT), Office of the Secretary.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** DOT proposes to revise its regulations regarding classification and declassification of, and access to,

classified information, and to delegate to the Assistant Secretary for Administration authority to ensure compliance within DOT with the regulations and the underlying Executive Orders. This action is taken in response to the President's Regulatory Reinvention Initiative and in order to implement recent Executive Orders.

**DATES:** Comments are due August 30, 1996.

**ADDRESSES:** Comments should be addressed to Documentary Services Division, Attention: Docket Section, Room PL401, Docket No. OST-96-1427, Department of Transportation, C-55, Washington, DC 20590. Any person wishing acknowledgment that his/her comments have been received should include a self-addressed stamped postcard. Comments received will be available for public inspection and copying in the Documentary Services Division, Room PL401, Department of Transportation Building, 400 Seventh Street, SW, Washington, DC, from 10:00

a.m. to 5:00 p.m. ET Monday through Friday except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Robert I. Ross, Office of the General Counsel, C-10, Department of Transportation, Washington, DC 20590, telephone (202) 366-9156, FAX (202) 366-9170.

**SUPPLEMENTARY INFORMATION:** In 1995, the President of the United States issued two Executive Orders making substantial revisions to the rules under which agencies of the Executive Branch, such as DOT, manage information that requires special treatment in the interest of national security. Briefly stated, Executive Order 12958 of April 17, 1995, Classified National Security Information, requires that less information be classified; and Executive Order 12968 of August 2, 1995, Access to Classified Information, requires agencies to provide administrative review of decisions to deny access to classified information. This proposal seeks to implement both Orders. To

foster uniform administration within DOT, authority to ensure compliance is being delegated to the Assistant Secretary for Administration.

#### Analysis of Regulatory Impacts

This amendment is not a "significant regulatory action" within the meaning of Executive Order 12866. It is also not significant within the definition in DOT's Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this proposal will not have a significant economic impact on a substantial number of small entities.

This proposal does not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Finally, the proposal does not contain any collection of information requirements, requiring review under the Paperwork Reduction Act of 1980.

#### List of Subjects

##### 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies), Transportation Department.

##### 49 CFR Part 8

Classified information.

In accordance with the above, DOT proposes to amend 49 CFR, as follows:

#### **PART 1—[AMENDED]**

1. The authority citation for part 1 would continue to read as follows:

Authority: 49 USC 322.

2. In § 1.59, a new paragraph (e)(9) would be added to read as follows:

##### **§ 1.59 Delegations to the Assistant Secretary for Administration.**

(e) \* \* \*.

(9) Ensure Department-wide compliance with Executive Orders 10450, 12829, 12958, 12968, and related regulations and issuances.

\* \* \* \* \*

3. Part 8 would be revised to read as follows:

#### **PART 8—CLASSIFIED INFORMATION: CLASSIFICATION/DECLASSIFICATION/ACCESS**

##### **Subpart A—General**

Sec.

- 8.1 Scope.
- 8.3 Applicability.
- 8.5 Definitions.
- 8.7 Spheres of responsibility.

##### **Subpart B—Classification/Declassification of Information**

- 8.9 Information Security Review Committee.
- 8.11 Authority to classify information.
- 8.13 Authority to downgrade or declassify.
- 8.15 Mandatory review for classification.
- 8.17 Classification challenges.
- 8.19 Procedures for submitting and processing requests for classification reviews.
- 8.21 Burden of proof.
- 8.23 Classified information transferred to the Department of Transportation.

##### **Subpart C—Access to Information**

- 8.25 Personnel Security Review Board.
  - 8.27 Public availability of declassified information.
  - 8.29 Access by historical researchers and former Presidential appointees.
  - 8.31 Industrial security.
- Authority: EO 10450, 18 FR 2489, 3 CFR 1949–1953, Com., p. 936; EO 12829, 58 FR 3479; EO 12458, 60 FR 19825; EO 12968, 60 FR 40245.

##### **Subpart A—General**

###### **§ 8.1 Scope.**

This part sets forth procedures for the classification, declassification, and availability of information that must be protected in the interest of national security, in implementation of Executive Order 12958 of April 17, 1995, "Classified National Security Information;" and for the review of decisions to revoke, or not to issue, national security information clearances, or to deny access to classified information, under Executive Order 12968 of August 2, 1995, "Access to National Security Information".

###### **§ 8.3 Applicability.**

This part applies to all elements of the Department of Transportation.

###### **§ 8.5 Definitions.**

As used in this part:

*Classification* means the act or process by which information is determined to be classified information.

*Classification levels* means the following three levels at which information may be classified:

(a) *Top Secret*. Information that requires the highest degree of protection, and the unauthorized disclosure of which could reasonably be expected to cause exceptionally grave

damage to the national security that the original classification authority is able to identify or describe.

(b) *Secret*. Information that requires a substantial degree of protection, and the unauthorized disclosure of which could reasonably be expected to cause serious damage to the national security that the original classification authority is able to identify or describe.

(c) *Confidential*. Information that requires protection and the unauthorized disclosure of which could reasonably be expected to cause damage to the national security that the original classification authority is able to identify or describe.

*Classified information* or *classified national security information* means information that has been determined under Executive Order 12958, or any predecessor or successor order, to require protection against unauthorized disclosure, and is marked to indicate its classified status when in documentary form.

*Clearance* means that an individual is eligible, under the standards of Executive Orders 10450 and 12968 and appropriate DOT regulations, for access to classified information.

*Damage to the national security* means harm to the national defense or foreign relations of the United States from the unauthorized disclosure of information, to include the sensitivity, value, and utility of that information.

*Declassification* means the authorized change in the status of information from classified information to unclassified information.

*Downgrading* means a determination by a declassification authority that information classified and safeguarded at a specific level shall be classified and safeguarded at a lower level.

*Information* means any knowledge that can be communicated, or documentary material, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States Government. *Control* means the authority of the agency that originates information, or its successor in function, to regulate access to the information.

*Mandatory declassification review* means the review for declassification of classified information in response to a request for declassification that qualifies under Section 3.6 of Executive Order 12958.

*Original classification* means an initial determination that information requires, in the interest of national security, protection against unauthorized disclosure.

*Original classification authority* means an individual authorized in

writing, either by the President or by agency heads or other officials designated by the President, to classify information in the first instance.

**§ 8.7 Spheres of responsibility.**

(a) Pursuant to Section 5.6(c) of Executive Order 12958, and to Section 6.1 of Executive Order 12968, the Assistant Secretary for Administration is hereby designated as the senior agency official of the Department of Transportation with assigned responsibilities to assure effective compliance with and implementation of Executive Order 12958, Executive Order 12968, Office of Management and Budget Directives, these regulations, and related issuances.

(b) In the discharge of these responsibilities, the Assistant Secretary for Administration will be assisted by the Director of Security, who, in addition to other actions directed by this part, will evaluate the overall application of and adherence to the security policies and requirements prescribed herein and who will report his/her findings and recommendations to the Assistant Secretary for Administration, heads of Departmental elements, and, as appropriate, to the Secretary.

(c) Secretarial Officers and heads of Departmental elements will assure that the provisions herein are effectively administered, that adequate personnel and funding are provided for this purpose, and that corrective actions that may be warranted are taken promptly.

**Subpart B—Classification/Declassification of Information**

**§ 8.9 Information Security Review Committee.**

(a) There is hereby established a Department of Transportation Information Security Review Committee, which will have authority to:

(1) Act on all suggestions and complaints not otherwise resolved with respect to the Department's administration of Executive Order 12958 and implementing directives, including those regarding overclassification, failure to declassify, or delay in declassifying;

(2) Act on appeals of requests for classification reviews, and appeals of requests for records under 5 U.S.C. 552 (Freedom of Information Act) when the initial, and proposed final, denials are based on continued classification of the record; and

(3) Recommend to the Secretary, when necessary, appropriate administrative action to correct abuse or

violation of any provision of Executive Order 12598 and implementing directives.

(b) The Information Security Review Committee will be composed of the Assistant Secretary for Administration, who will serve as Chair; the General Counsel; and the Director of Security. When matters affecting a particular Departmental agency are at issue, the Associate Administrator for Administration for that agency, or the Chief of Staff for the U.S. Coast Guard, as the case may be, will participate as an ad hoc member, together with the Chief Counsel of that agency. Any regular member may designate a representative with full power to serve in his/her place.

(c) In carrying out its responsibilities to review decisions to revoke or not to issue clearances, or to deny access to classified information, the Committee will establish whatever procedures it deems fit.

**§ 8.11 Authority to classify information.**

(a) Executive Order 12958 confers upon the Secretary of Transportation the authority to originally classify information as SECRET with further authorization to delegate this authority.

(b) The following delegations of authority to originally classify information as "SECRET", which may not be redelegated, are hereby made:

(1) *Office of the Secretary of Transportation.* The Deputy Secretary; Assistant Secretary for Administration; Director of Intelligence and Security; Director of Security.

(2) *United States Coast Guard.* Commandant; Chief, Office of Law Enforcement and Defense Operations.

(3) *Federal Aviation Administration.* Administrator; Assistant Administrator for Civil Aviation Security.

(4) *Maritime Administration.* Administrator.

(c) Although the delegations of authority set out in paragraph (b) of this section are expressed in terms of positions, the authority is personal and is invested only in the individual occupying the position. The authority may not be exercised "by direction of" a designated official. The formal appointment or assignment of an individual to one of the identified positions or a designation in writing to act in the absence of one of these officials, however, conveys the authority to originally classify information as "SECRET".

(d) Previous delegations and redelegations of authority within the Department of Transportation to originally classify information are hereby rescinded.

**§ 8.13 Authority to downgrade or declassify.**

Information originally classified by the Department may be specifically downgraded or declassified by either the official authorizing the original classification, if that official is still serving in the same position, the originator's current successor in function, a supervisory official of either, officials delegated declassification authority in writing by the Secretary, or by the Departmental Information Security Review Committee.

**§ 8.15 Mandatory review for classification.**

(a) All information classified by the Department of Transportation under Executive Order 12958 or predecessor orders shall be subject to a review for declassification if:

(1) the request for review describes the information with sufficient specificity to enable its location with a reasonable amount of effort; and

(2) the information has not been reviewed for declassification within the prior two years. If the information has been reviewed within the prior two years, or the information is the subject of pending litigation, the requestor will be informed of this fact, and of the Department's decision not to declassify the information and of his/her right to appeal the Department's decision not to declassify the information to the Interagency Security Classification Appeals Panel.

(b) All information reviewed for declassification because of a mandatory review will be declassified if it does not meet the standards for classification in Executive Order 12958. The information will then be released unless withholding is otherwise authorized and warranted under applicable law.

**§ 8.17 Classification challenges.**

(a) Authorized holders of information classified by the Department of Transportation who, in good faith, believe that its classification status is improper are encouraged and expected to challenge the classification status of the information before the Departmental Information Security Review Committee.

(1) No individual will be subject to retribution for bringing such a challenge; and

(2) Each individual whose challenge is denied will be advised that he/she may appeal to the Interagency Security Classification Appeals Panel established by § 5.4 of Executive Order 12958.

(b) This classification challenge provision is not intended to prevent an authorized holder of information classified by the Department of

Transportation from informally questioning the classification status of particular information. Such information inquiries should be encouraged as means to resolve classification concerns and reduce the administrative burden of formal challenges.

**§ 8.19 Procedures for submitting and processing requests for classification reviews.**

(a) The Director of Security is hereby designated as the official to whom a member of the public or another department or agency should submit a request for a classification review of classified information produced by or under the primary cognizance of the Department. Elements of the Department that receive a request directly will immediately notify the Director.

(b) If the request for classification review involves material produced by or under the cognizance of the U.S. Coast Guard or the Federal Aviation Administration, the Director will forward the request to the headquarters security staff of the element concerned for action. If the request involves material produced by other Departmental elements, the Director will serve as the office acting on the request.

(c) The office acting on the request will:

(1) Immediately acknowledge receipt of the request and provide a copy of the correspondence to the Director. If a fee for search of records is involved pursuant to 49 CFR part 7, the requester will be so notified;

(2) Conduct a security review, which will include consultation with the office that produced the material and with source authorities when the classification, or exemption of material from automatic declassification, was based upon determinations by an original classifying authority; and

(3) Assure that the requester is notified of the determination within 30 calendar days or given an explanation as to why further time is necessary, and provide a copy of the notification to the Director.

(d) If the determination reached is that continued classification is required, the notification to the requester will include, whenever possible, a brief statement as to why the requested material cannot be declassified. The notification will also advise the requester of the right to appeal the determination to the Departmental Information Security Review Committee. A requester who wishes to appeal a classification review decision,

or who has not been notified of a decision after 60 calendar days, may submit an appeal to the Departmental Information Security Review Committee.

(e) If the determination reached is that continued classification is not required, the information will be declassified and the material remarked accordingly. The office acting on the request will then refer the request to the office originating the material or higher authority to determine if it is otherwise withholdable from public release under the Freedom of Information Act (5 U.S.C. 552) and the Department's implementing regulations (49 CFR part 7).

(1) If the material is available under the Freedom of Information Act, the requester will be advised that the material has been declassified and is available. If the request involves the furnishing of copies and a fee is to be collected, the requester will be so advised pursuant to 49 CFR part 7, Departmental regulations implementing the Freedom of Information Act.

(2) If the material is not available under the Freedom of Information Act, the requester will be advised that the material has been declassified but that the record is unavailable pursuant to the Freedom of Information Act, and that the provisions concerning procedures for reconsidering decisions not to disclose records, contained in 49 CFR part 7, apply.

(f) Upon receipt of an appeal from a classification review determination based upon continued classification, the Departmental Information Security Review Committee will acknowledge receipt immediately and act on the matter within 30 calendar days. With respect to information originally classified by or under the primary cognizance of the Department, the Committee, acting for the Secretary, has authority to overrule previous determinations in whole or in part when, in its judgment, continued protection in the interest of national security is no longer required. When the classification of the material produced in the Department is based upon a classification determination made by another department or agency, the Committee will immediately consult with its counterpart committee for that department or agency.

(1) If it is determined that the material produced in the Department requires continued classification, the requester will be so notified and advised of the right to appeal the decision to the Interagency Classification Review Committee.

(2) If it is determined that the material no longer requires classification, it will be declassified and remarked. The Committee will refer the request to the General Counsel, or to the head of the Departmental agency concerned, as the case may be, to determine if the material is otherwise withholdable from the public under the Freedom of Information Act (5 U.S.C. 552) and Departmental regulations, (49 CFR Part 7), and paragraphs (f)(1) and (2) of this section will be followed. A copy of the response to the requester will be provided to the Committee.

(g) Requests for a classification review of material more than 25 years old will be referred directly to the Archivist of the United States and the requester will be notified of the referral. In this event, the provisions of § 8.19 apply.

(h) Whenever a request is insufficient in the description of the record sought, the requester will be asked to limit his request to records that are reasonably obtainable. If, in spite of these steps, the requester does not describe the records with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester will be notified of the reasons why the request is denied and of his/her right to appeal the determination to the Departmental Information Security Review Committee.

**§ 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 Departmental agency to show that continued classification is warranted.

**§ 8.23 Classified information transferred to the Department of Transportation.**

(a) Classified information officially transferred to the Department in conjunction with a transfer of function, and not merely for storage purposes, will be considered to have been originated by the Department.

(b) Classified information in the custody of the Department originated by a department or agency that has ceased to exist and for whom there is no successor agency will be deemed to have been originated by the Department. This information may be declassified or downgraded by the Department after consultation with any other agency that has an interest in the subject matter of the information. Such agency will be allowed 30 calendar days in which to express an objection, if it so desires, before action is taken. A difference of opinion that cannot be resolved will be referred to the Departmental Information Security Review Committee, which will consult with its

counterpart committee for the other agency.

(c) Classified information transferred to the National Archives and Records Administration will be declassified or downgraded by the Archivist in accordance with Executive Order 12958, Departmental classification guides, and any existing procedural agreement between the Archivist and the Department. The Department will take all reasonable steps to declassify information contained in records determined to have permanent historical value before they are accessioned in the National Archives.

(d) To the extent practicable, the Department will adopt a system of records management that will facilitate the public release of documents at the time such documents are declassified under the provisions of this part for automatic declassification. To the maximum extent possible without destroying the integrity of the Department's files, all such material will be segregated or set aside for public release upon request. The Department will cooperate with the Archivist in efforts to establish a Government-wide database of information that has been declassified.

### Subpart C—Access to Information

#### § 8.25 Personnel Security Review Board.

(a) There is hereby established a Department of Transportation Personnel Security Review Board, which will, on behalf of the Secretary of Transportation (except in any case in which the Secretary personally makes the decision), make the administratively final decision on an appeal arising in any part of the Department from:

(1) A decision not to grant access to classified information;

(2) A decision to revoke access to classified information; or

(3) A decision under § 8.29 of this part to deny access to classified information.

(b) The Personnel Security Review Board will be composed of:

(1) two persons appointed by the Assistant Secretary for Administration: one from the Office of Personnel and Training, and one, familiar with personnel security adjudication, from the Office of Security, who will serve as Chair;

(2) one person appointed by the General Counsel, who, in addition to serving as a member of the Board, will provide to the Board whatever legal services it may require; and

(3) one person appointed by each of the Commandant of the Coast Guard and the Federal Aviation Administrator.

(4) Any member may designate a representative, meeting the same criteria

as the member, with full power to serve in his/her place.

(c) In carrying out its responsibilities to review final decisions to revoke or deny access to classified information, the Board will establish whatever procedures it deems fit.

#### § 8.27 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 that is declassified for any reason loses its status as material protected in the interest of national security. Accordingly, declassified information will 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 the Freedom of Information Act (5 U.S.C. 552) and implementing Departmental regulations (49 CFR part 7).

(b) In furtherance of this policy, all classified material produced after June 1, 1972 that is of sufficient historical or other value to warrant preservation as permanent records in accordance with appropriate records administrative standards, and that becomes declassified, will 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 will be segregated or set aside for public release upon request.

#### § 8.29 Access by historical researchers and former Presidential appointees.

(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 is 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 its contractors, or where the information, if originated elsewhere, is in the sole custody of the Department.

Any person requesting access to material originated in another agency or to information under the exclusive jurisdiction of the National Archives and Records Administration will be referred to the other agency or to the National Archives and Records Administration, as appropriate.

(3) When a request for access to classified information for historical research is received, it will be referred to the appropriate local security office. That office will obtain from the applicant completed Standard Form 86, Questionnaire for National Security Positions, in triplicate, and Standard Form 87, Fingerprint Chart; a statement in detail to justify access, including identification of the kind of information desired and the organization or organizations, if any, sponsoring the research; and a written statement (signed, dated, and witnessed) with respect to the following:

(i) That the applicant will abide by regulations of the Department:

(A) To safeguard classified information; and

(B) To protect information that has been determined to be proprietary or privileged and is therefore not eligible for public dissemination.

(ii) That the applicant understands that any classified information that the applicant receives affects the security of the United States.

(iii) That the applicant acknowledges an obligation to safeguard classified information or privileged information of which the applicant gains possession or knowledge as a result of the applicant's access to files of the Department.

(iv) That the applicant agrees not to reveal to any person or agency any classified information or privileged information obtained as a result of the applicant's access except as specifically authorized in writing by the Department, and further agrees that the applicant shall not use the information for purposes other than those set forth in the applicant's application.

(v) That the applicant agrees to authorize a review of the applicant's notes and manuscript for the sole purpose of determining that no classified information or material is contained therein.

(vi) That the applicant understands that failure to abide by conditions of this statement will constitute sufficient cause for canceling the applicant's access to classified information and for denying the applicant any future access, and may subject the applicant to criminal provisions of Federal law as referred to in this statement.

(vii) That the applicant is aware and fully understands that title 18, United

States Code, Crimes and Criminal Procedures, and the Internal Security Act of 1950, as amended, title 50, United States Code, prescribe, under certain circumstances, criminal penalties for the unauthorized disclosure of information respecting the national security, and for loss, destruction, or compromise of such information.

(viii) That this statement is made to the U.S. Government to enable it to exercise its responsibilities for the protection of information affecting the national security.

(ix) That the applicant understands that any material false statement that the applicant makes knowingly and willfully will subject the applicant to the penalties of 18 U.S.C. 1001.

(4) The security office will process the forms in the same manner as specified for a preappointment national agency check for a critical-sensitive position. Upon receipt of the completed national agency check, the security office, if warranted, may determine that access by the applicant to the information will be clearly consistent with the interests of national security and the person to be granted access is trustworthy. If deemed necessary, before making its determination, the office may conduct or request further investigation. Before access is denied in any case, the matter will be referred through channels to the Director of Security for review and submission to the Personnel Security Review Board for final review.

(5) If access to TOP SECRET or intelligence or communications security information is involved a special background investigation is required. However, this investigation will not be requested until the matter has been referred through channels to the Director of Security for determination as to adequacy of the justification and the consent of other agencies as required.

(6) When it is indicated that an applicant's research may extend to material originating in the records of another agency, approval must be obtained from the other agency prior to the grant of access.

(7) Approvals for access will be valid for the duration of the current research project but no longer than 2 years from the date of issuance, unless renewed. If a subsequent request for similar access is made by the individual within 1 year from the date of completion of the current project, access may again be granted without obtaining a new National Agency Check. If more than 1 year has elapsed, a new National Agency Check must be obtained. The local security office will promptly advise its headquarters security staff of

all approvals of access granted under these provisions.

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

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

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

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

#### **§ 8.31 Industrial security.**

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

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

Issued in Washington, DC, on May 31, 1996.

Federico Peña,

*Secretary of Transportation.*

[FR Doc. 96-16524 Filed 6-28-96; 8:45 am]

BILLING CODE 4910-62-P

### **National Highway Traffic Safety Administration**

#### **49 CFR Part 571**

[Docket No. 96-066; Notice 01]

RIN 2127-AG19

### **Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment; Heavy Truck Conspicuity; Evaluation Plan**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Request for comment on proposed collection of information.

**SUMMARY:** NHTSA is initiating a study to evaluate the safety effects of the Conspicuity Systems requirement (Section 5.7) of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, Reflective Devices, and Associated Equipment. To carry out the study, NHTSA has requested that special motor vehicle crash data be collected by two state law enforcement agencies. Before a Federal agency can collect certain information, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal Agencies must solicit public comment on the proposed collection of