

## § 250.9

(12) If the export is directly related to classified information, the export of which has been previously authorized to the same recipient, and does not disclose the details of design, production, or manufacture of any arms, ammunition, or implements of war on the U.S. Munitions List.

(b) *Plant visits.* Except as restricted by the provisions of § 126.01 of this subchapter:

(1) No license shall be required for the oral and visual disclosure of unclassified technical data during the course of a plant visit by foreign nationals provided the data [are] disclosed in connection with a classified plant visit or the visit has the approval of a U.S. Government agency having authority for the classification of information or material under Executive Order [12356], as amended, and other applicable Executive Orders, and the requirements of section V, paragraph [41(d)] of the Industrial Security Manual are met.

(2) No license shall be required for the documentary disclosure of unclassified technical data during the course of a plant visit by foreign nationals provided the document does not contain technical data as defined in § 125.01 in excess of that released orally or visually during the visit, is within the terms of the approved visit request, and the person in the United States assures that the technical data will not be used, adopted for use, or disclosed to others for the purpose of manufacture or production without the prior approval of the Department of State in accordance with part 124 of this subchapter.

(3) No Department of State approval is required for the disclosure of oral and visual classified information during the course of a plant visit by foreign nationals provided the visit has been approved by the cognizant U.S. Defense agency and the requirements of section V, paragraph [41(d)] of the Defense Industrial Security Manual are met.

### **§ 250.9 Notice to accompany the dissemination of export-controlled technical data.**

(a) Export of information contained herein, which includes, in some circumstances, release to foreign nationals within the United States, without first obtaining approval or license from the Department of State for items controlled by the International Traffic in Arms Regulations (ITAR), or the Department of Commerce for items controlled by the Export Administration Regulations (EAR), may constitute a violation of law.

(b) Under 22 U.S.C. 2778 the penalty for unlawful export of items or information controlled under the ITAR is up to 2 years imprisonment, or a fine of

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\$100,000, or both. Under 50 U.S.C., appendix 2410, the penalty for unlawful export of items or information controlled under the EAR is a fine of up to \$1,000,000, or five times the value of the exports, whichever is greater; or for an individual, imprisonment of up to 10 years, or a fine of up to \$250,000, or both.

(c) In accordance with your certification that establishes you as a “qualified U.S. contractor,” unauthorized dissemination of this information is prohibited and may result in disqualification as a qualified U.S. contractor, and may be considered in determining your eligibility for future contracts with the Department of Defense.

(d) The U.S. Government assumes no liability for direct patent infringement, or contributory patent infringement or misuse of technical data.

(e) The U.S. Government does not warrant the adequacy, accuracy, currency, or completeness of the technical data.

(f) The U.S. Government assumes no liability for loss, damage, or injury resulting from manufacture or use for any purpose of any product, article, system, or material involving reliance upon any or all technical data furnished in response to the request for technical data.

(g) If the technical data furnished by the Government will be used for commercial manufacturing or other profit potential, a license for such use may be necessary. Any payments made in support of the request for data do not include or involve any license rights.

(h) A copy of this notice shall be provided with any partial or complete reproduction of these data that are provided to qualified U.S. contractors.

## **PART 252—DEPARTMENT OF DEFENSE OFFSHORE MILITARY ACTIVITIES PROGRAM**

- Sec.  
252.1 Reissuance and purpose.  
252.2 Applicability and scope.  
252.3 Definitions.  
252.4 Policy.  
252.5 Responsibilities.

AUTHORITY: 5 U.S.C. 301.

SOURCE: 52 FR 39222, Oct. 21, 1987, unless otherwise noted.