

§ 1045.19

information in a previously declassified subject area using the criteria in section 1045.16 and classify it as RD, if warranted.

(b) The Director of Classification shall not classify the information in such cases if it is widely disseminated in the public domain.

[62 FR 68509, Dec. 31, 1997, as amended at 71 FR 68737, Nov. 28, 2006]

§ 1045.19 Accountability for classification and declassification determinations.

(a) Whenever a classification or declassification determination concerning RD or FRD information is made, the Director of Classification and the Chief Health, Safety and Security Officer shall be able to justify the determination. For FRD and RD primarily related to military utilization, the Director of Classification and the Chief Health, Safety and Security Officer shall coordinate the determination and justification with the DoD. If the determination involves a departure from the presumptions in §1045.15, the justification shall include a rationale for the departure. Often the justification itself will contain RD or FRD information. In such a case, the Director of Classification and the Chief Health, Safety and Security Officer shall ensure that a separate justification can be prepared which is publicly releasable. The publicly releasable justification shall be made available to any interested person upon request to the Director of Classification.

(b) The Director of Classification shall prepare a report on an annual basis on the implementation of this part. This report shall be available to any interested person upon request to the Director of Classification. Requests may be submitted to the Director Office of Classification, HS-90/Germantown Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585-1290.

[62 FR 68509, Dec. 31, 1997, as amended at 71 FR 68737, Nov. 28, 2006]

§ 1045.20 Ongoing call for declassification proposals.

The Chief Health, Safety and Security Officer shall consider proposals from the public or agencies or contrac-

10 CFR Ch. X (1-1-11 Edition)

tors for declassification of RD and FRD information on an ongoing basis. Declassification proposals for RD and FRD information shall be forwarded to the Chief Health, Safety and Security Officer, HS-1/Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. Any proposed action shall include a description of the information concerned and may include a reason for the request. DOE and DoD shall coordinate with one another concerning declassification proposals for FRD information.

[62 FR 68509, Dec. 31, 1997, as amended at 71 FR 68737, Nov. 28, 2006]

§ 1045.21 Privately generated restricted data.

(a) DOE may classify RD which is privately generated by persons not pursuant to Government contracts, in accordance with the Atomic Energy Act.

(b) In order for information privately generated by persons to be classified as RD, the Secretary or Deputy Secretary shall make the determination personally and in writing. This authority shall not be delegated.

(c) DOE shall publish a FEDERAL REGISTER notice when privately generated information is classified as RD, and shall ensure that the content of the notice is consistent with protecting the national security and the interests of the private party.

§ 1045.22 No comment policy.

(a) Authorized holders of RD and FRD shall not confirm or expand upon the classification status or technical accuracy of classified information in the public domain.

(b) Unauthorized disclosure of classified information does not automatically result in the declassification of that information.

(c) If the disclosure of classified information is sufficiently authoritative or credible, the Chief Health, Safety and Security Officer shall examine the possibility of declassification.

[62 FR 68509, Dec. 31, 1997, as amended at 71 FR 68737, Nov. 28, 2006]