

## § 1045.21

### § 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]

## Subpart C—Generation and Review of Documents Containing Restricted Data and Formerly Restricted Data

### § 1045.30 Purpose and scope.

This subpart specifies Government-wide classification program implementation requirements for agencies with access to RD and FRD, describes authorities and procedures for RD and FRD document classification and declassification, provides for periodic or systematic review of RD and FRD documents, and describes procedures for the mandatory review of RD and FRD documents. This subpart applies to all RD and FRD documents, regardless of whether they also contain National Security Information (NSI), or other con-

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trolled information such as “For Official Use Only” information or “Unclassified Controlled Nuclear Information.”

### § 1045.31 Applicability.

This subpart applies to—

(a) Any person with authorized access to RD or FRD;

(b) Any agency with access to RD or FRD; and

(c) Any person generating a document containing RD or FRD.

### § 1045.32 Authorities.

(a) *Classification of RD and FRD documents.* (1) To the maximum extent practical, all RD and FRD documents shall be classified based on joint DOE-Agency classification guides or Agency guides coordinated with the DOE. When it is not practical to use classification guides, source documents may be used as an alternative.

(2) Only individuals designated as RD classifiers may classify RD and FRD documents, except within the DoD. Within the DoD, any individual with access to RD and FRD who has been trained may classify RD and FRD documents.

(3) RD classifiers shall classify only documents in subject areas in which they have programmatic expertise.

(4) RD classifiers may upgrade or downgrade the classification level of RD or FRD documents in accordance with joint DOE-Agency classification guides or Agency guides coordinated with the DOE. When it is not practical to use classification guides, source documents may be used as an alternative.

(b) *Declassification of RD and FRD documents.* (1) Only designated individuals in the DOE may declassify documents containing RD.

(2) Except as provided in paragraph (b)(3) of this section, only designated individuals in the DOE or appropriate individuals in DoD may declassify documents marked as FRD in accordance with joint DoD-DOE classification guides or DoD guides coordinated with the DOE.

(3) The DOE and DoD may delegate these authorities to other agencies and to contractors. Contractors without the delegated authority shall send any document marked as RD or FRD that