(c) When documents contain environmental, safety or health information and a separate unclassified version cannot be prepared, document originators are encouraged to provide a publicly releasable rationale for the classification of the documents.

§ 1045.43 Systematic review for declassification.

(a) The Secretary shall ensure that RD documents, and the DoD shall ensure that FRD documents, are periodically and systematically reviewed for declassification. The focus of the review shall be based on the degree of public and researcher interest and likelihood of declassification upon review.

(b) Agencies with RD or FRD document holdings shall cooperate with the Director of Classification (and with the DoD for FRD) to ensure the systematic review of RD and FRD documents.

(c) Review of documents in particular areas of public interest shall be considered if sufficient interest is demonstrated. Proposals for systematic document reviews of given collections unless such an acknowledgment would reveal classified information.

(b) When segregation of RD or FRD into an addendum is not practical, document originators are encouraged to prepare separate unclassified versions of documents with significant public interest.

(c) When documents contain environmental, safety or health information and a separate unclassified version cannot be prepared, document originators are encouraged to provide a publicly releasable rationale for the classification of the documents.

§ 1045.42 Mandatory and Freedom of Information Act reviews for declassification of restricted data and formerly restricted data documents.

(a) General. (1) Agencies with documents containing RD and FRD shall respond to mandatory review and Freedom of Information Act (FOIA) requests for these documents from the public.

(2) In response to a mandatory review or Freedom of Information Act request, DOE or DoD may refuse to confirm or deny the existence or nonexistence of the requested information whenever the fact of its existence or nonexistence is itself classified as RD or FRD.

(b) Processing Requests. (1) Agencies shall forward documents containing RD to DOE for review.

(2) Agencies shall forward documents containing FRD to the DOE or to the DoD for review, depending on which is the originating agency.

(3) The DOE and DoD shall coordinate the review of RD and FRD documents as appropriate.

(4) The review and appeal process is that described in subpart D of this part except for the appeal authority. DOE and DoD shall not forward RD and FRD documents to the Interagency Security Classification Appeals Panel (ISCAP) for appeal review unless those documents also contain NSI. In such cases, the DOE or DoD shall delete the RD and FRD portions prior to forwarding the NSI and unclassified portions to the ISCAP for review.

(5) Information Declassification Actions resulting from appeal reviews. (i) Appeal reviews of RD or FRD documents shall be based on existing classification guidance. However, the Director of Classification shall review the RD and FRD information in the appealed document to determine if it may be a candidate for possible declassification.

(ii) If declassification of the information appears appropriate, the Director of Classification shall initiate a formal declassification action and so advise the requester.

(c) Denying Official. (1) The denying official for documents containing RD is the Director of Classification.

(2) The denying official for documents containing FRD is either the Director of Classification or an appropriate DoD official.

(d) Appeal Authority. (1) The appeal authority for RD documents is the Chief Health, Safety and Security Officer.

(2) The appeal authority for FRD documents is either the Chief Health, Safety and Security Officer, or an appropriate DoD official.

(e) The denying official and appeal authority for Naval Nuclear Propulsion Information is the Director, Office of Naval Reactors.

(f) RD and FRD information contained in documents shall be withheld from public disclosure under exemption 3 of the FOIA (5 U.S.C. 522 (b)(3)) because such information is exempt under the statutory jurisdiction of the Atomic Energy Act.

or subject areas should be addressed to
the Director, Office of Classification, HS–90/Germantown Building, U.S. De-
partment of Energy, 1000 Independence
Avenue SW., Washington, DC 20585–
1290.
FR 68737, Nov. 28, 2006]

§ 1045.44 Classification review prior to
public release.
Any person with authorized access to
RD or FRD who generates a document
intended for public release in an RD or
FRD subject area shall ensure that it is
reviewed for classification by the ap-
propriate DOE organization (for RD) or
the appropriate DOE or DoD organiza-
tion (for FRD) prior to its release.

§ 1045.45 Review of unmarked docu-
ments with potential restricted
data or formerly restricted data.
(a) Individuals reviewing NSI records
of permanent historical value under
the automatic or systematic review
provisions of E.O. 12958 may come upon
documents that they suspect may con-
tain RD or FRD, but which are not so
marked. Such documents are not sub-
ject to automatic declassification.
(b) Such documents shall be reviewed
by an RD Classifier as soon as possible
to determine their classification sta-
tus. Assistance may be requested from
the Director of Classification.
FR 68737, Nov. 28, 2006]

§ 1045.46 Classification by association
or compilation.
(a) If two pieces of unclassified infor-
mation reveal classified information
when associated, then RD classifiers
may classify the document.
(b) RD classifiers may classify a doc-
ument because a number of pieces of
unclassified information considered to-
gether contain some added value such
as completeness or comprehensiveness
of the information which warrants
classification.

Subpart D—Executive Order
12958: “Classified National
Security Information” Require-
ments Affecting the Public

§ 1045.50 Purpose and scope.
This subpart describes the procedures
to be used by the public in questioning
or appealing DOE decisions regarding
the classification of NSI under E.O.

§ 1045.51 Applicability.
This subpart applies to any person
with authorized access to DOE NSI or
who desires access to DOE documents
containing NSI.

§ 1045.52 Mandatory declassification
review requests.
All DOE information classified as
NSI is subject to review for declas-
sification by the DOE if:
(a) The request for a review describes
the document containing the informa-
tion with sufficient specificity to en-
able the agency to locate it with a rea-
sonable amount of effort;
(b) The information is not exempted
from search and review under the Cen-
tral Intelligence Agency Information
Act;
(c) The information has not been re-
viewed for declassification within the
past 2 years; and
(d) The request is sent to the Direc-
tor, Office of Classification, HS–90/Ger-
mantown Building, U.S. Department of
Energy, 1000 Independence Avenue SW.,
Washington, DC 20585–1290.
FR 68737, Nov. 28, 2006]

§ 1045.53 Appeal of denial of manda-
tory declassification review re-
quests.
(a) If the Department has reviewed
the information within the past 2
years, the request may not be pro-
cessed. If the information is the subject
of pending litigation, the processing of
the request may be delayed pending
completion of the litigation. The De-
partment shall inform the requester of
this fact and of the requester’s appeal
rights.
(b) When the Director of Classifica-
tion has denied a request for review of