(1) The information is owned by, produced by or for, or is under the control of the United States Government;

(2) The information falls within one or more of the categories of information specified in section 1.5 of Executive Order 12958; and

(3) The classifying official determines that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security and such official is able to identify or describe the damage.

(b) Information may be classified as Top Secret, Secret, or Confidential according to the standards established in section 1.3 of Executive Order 12958. No other terms shall be used to identify United States classified national security information except as otherwise provided by statute.

(c) Information shall not be classified if there is significant doubt about the need to classify the information. If there is significant doubt about the appropriate level of classification with respect to information that is being classified, it shall be classified at the lower classification of the levels considered.

(d) Information shall not be classified in order to conceal inefficiency, violations of law, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; or to prevent or delay release of information that does not require protection in the interest of national security. Information that has been declassified and released to the public under proper authority may not be reclassified.

(e) Information that has not previously been disclosed to the public under proper authority may be classified or reclassified after the Department has received a request for it under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory review provisions of §17.31. When it is necessary to classify or reclassify such information, it shall be forwarded to the Department Security Officer and classified or reclassified only at the direction of the Attorney General, the Deputy Attorney General, or the Assistant Attorney General for Administration.

(f) Compilations of items of information that are individually unclassified may be classified if the compiled information reveals an additional association or relationship that meets the standards for classification under Executive Order 12958 and that is not otherwise revealed in the individual items of information.

§ 17.23 Emergency classification requests.

(a) Whenever any employee, contractor, licensee, certificate holder, or grantee of the Department who does not have original classification authority originates or develops information that requires immediate classification and safeguarding, and no authorized classifier is available, that person shall:

(1) Safeguard the information in a manner appropriate for its classification level;

(2) Apply the appropriate overall classification markings; and

(3) Within five working days, securely transmit the information to the organization that has appropriate subject matter interest and classification authority.

(b) When it is not clear which Department organization would be the appropriate original classifier, the information shall be sent to the Department Security Officer to determine the appropriate organization.

(c) The organization with classification authority shall decide within 30 days whether to classify information.

§ 17.24 Duration of classification.

(a) At the time of original classification, original classification authorities shall attempt to establish a specific date or event for declassification not more than 10 years from the date of the original decision based on the duration of the national security sensitivity of the information. If the original classification authority cannot determine an earlier specific date or event for declassification, the information shall be marked for declassification 10 years from the date of the original decision.

(b) At the time of original classification, an original classification authority may exempt specific information from declassification within 10 years in

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accordance with section 1.6(d) of Executive Order 12958.

(c) An original classification authority may extend the duration of classification or reclassify specific information for successive periods not to exceed 10 years at a time if such action is consistent with the standards and procedures established under, and subject to the limitations of, Executive Order 12958.

§ 17.25   Identification and markings.

(a) Classified information must be marked pursuant to the standards set forth in section 1.7 of Executive Order 12958; ISOO implementing directives in 32 CFR 2001, subpart B; and internal Department of Justice direction provided by the Department Security Officer.

(b) Foreign government information shall be marked or classified at a level equivalent to that level of classification assigned by the originating foreign government.

(c) Information assigned a level of classification under predecessor Executive Orders shall be considered as classified at that level of classification.

§ 17.26   Derivative classification.

(a) Persons need not possess original classification authority to derivatively classify information based on source documents or classification guides.

(b) Persons who apply derivative classification markings shall observe original classification decisions and carry forward to any newly created documents the pertinent classification markings.

(c) Information classified derivatively from other classified information shall be classified and marked in accordance with the standards set forth in sections 2.1–2.3 of Executive Order 12958, the ISOO implementing directives in 32 CFR 2001.22, and internal Department directions provided by the Department Security Officer.

§ 17.27   Declassification and downgrading.

(a) Classified information shall be declassified as soon as it no longer meets the standards for classification. Declassification and downgrading is governed by § 3.1–3.3 of Executive Order 12958, im-plementing ISOO directives at 32 CFR 2001, subpart E, and applicable internal Department of Justice direction provided by the Department Security Officer.

(b) Information shall be declassified or downgraded by the official who authorized the original classification if that official is still serving in the same position, the originator's successor, or a supervisory official of either, or by officials delegated such authority in writing by the Attorney General or the Assistant Attorney General for Administration.

(c) It is presumed that information that continues to meet the classification requirements under Executive Order 12958 requires continued protection. In some exceptional cases during declassification reviews, the need to protect classified information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. If it appears that the public interest in disclosure of the information may outweigh the need to protect the information, the declassification reviewing official shall refer the case with a recommendation for decision to the DRC. The DRC shall review the case and make a recommendation to the Attorney General on whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure. The Attorney General shall decide whether to declassify the information. The decision of the Attorney General shall be final. This provision does not amplify or modify the substantive criteria or procedures for classification or create any substantive or procedural rights subject to judicial review.

(d) Each component shall develop schedules for declassification of records in the National Archives. The Department shall cooperate with the National Archives and Records Administration and the Presidential Libraries to ensure that declassification is accomplished in a timely manner.

§ 17.28   Automatic declassification.

(a) Subject to paragraph (b) of this section, all classified information contained in records that are more than 25