

§ 17.22

28 CFR Ch. I (7-1-08 Edition)

§ 17.22 Classification of information; limitations.

(a) Information may be originally classified only if all of the following standards are met:

(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 clas-

sified 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.