

§ 21.51 Maintenance and inspection of records.

(a) Each individual, corporation, partnership, dedicating entity, or other entity subject to the regulations in this part shall prepare and maintain records necessary to accomplish the purposes of this part, specifically—

(1) Retain evaluations of all deviations and failures to comply for a minimum of five years after the date of the evaluation;

(2) Suppliers of basic components must retain any notifications sent to purchasers and affected licensees for a minimum of five years after the date of the notification.

(3) Suppliers of basic components must retain a record of the purchasers of basic components for 10 years after delivery of the basic component or service associated with a basic component.

(b) Each individual, corporation, partnership, dedicating entity, or other entity subject to the regulations in this part shall permit the Commission the opportunity to inspect records pertaining to basic components that relate to the identification and evaluation of deviations, and the reporting of defects and failures to comply, including any advice given to purchasers or licensees on the placement, erection, installation, operation, maintenance, modification, or inspection of a basic component.

[56 FR 36090, July 31, 1991, as amended at 60 FR 48374, Sept. 19, 1995]

ENFORCEMENT

§ 21.61 Failure to notify.

(a) Any director or responsible officer of an entity (including dedicating entity) that is not otherwise subject to the deliberate misconduct provisions of this chapter but is subject to the regulations in this part who knowingly and consciously fails to provide the notice required as by § 21.21 shall be subject to a civil penalty equal to the amount provided by section 234 of the Atomic Energy Act of 1954, as amended.

(b) Any NRC licensee subject to the regulations in this part who fails to provide the notice required by § 21.21 or otherwise fails to comply with the applicable requirements of this part shall

be subject to a civil penalty as provided by section 234 of the Atomic Energy Act of 1954, as amended.

(c) The dedicating entity, pursuant to § 21.21(c) of this part, is responsible for identifying and evaluating deviations, reporting defects and failures to comply for the dedicated item, and maintaining auditable records of the dedication process. NRC enforcement action can be taken for failure to identify and evaluate deviations, failure to report defects and failures to comply, or failure to maintain auditable records.

[60 FR 48374, Sept. 19, 1995]

§ 21.62 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 21 are issued under one or more of sections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 21 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 21.1, 21.2, 21.3, 21.4, 21.5, 21.7, 21.8, 21.61, and 21.62.

[57 FR 55071, Nov. 24, 1992]

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

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APPENDIX A TO PART 25—FEES FOR NRC ACCESS AUTHORIZATION

AUTHORITY: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398 (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

Appendix A also issued under 96 Stat. 1051 (31 U.S.C. 9701).

SOURCE: 45 FR 14481, Mar. 5, 1980, unless otherwise noted.

GENERAL PROVISIONS

§ 25.1 Purpose.

This part establishes procedures for granting, reinstating, extending, transferring and terminating access authorizations of licensee personnel, licensee contractors or agents and other persons (e.g. individuals involved in adjudicatory procedures as set forth in 10 CFR part 2, subpart I) who may require access to information classified at the Secret and Confidential National Security Information and/or Restricted Data level.

§ 25.3 Scope.

The regulations in this part apply to licensees and others who may require access to National Security Information and/or Restricted Data related to a license or application for a license.

§ 25.5 Definitions.

Access authorization means an administrative determination that an individual (including a consultant) who is employed by or an applicant for employment with the NRC, NRC contractors, agents, and licensees of the NRC,

or other person designated by the Executive Director for Operations, is eligible for a security clearance for access to Restricted Data or national security information.

Act means the Atomic Energy Act of 1954 (68 Stat. 919), as amended.

Commission means the Nuclear Regulatory Commission or its duly authorized representatives.

L access authorization means an access authorization granted by the Commission which is normally based on a national agency check and credit investigation (NAC&C) or national agency check, inquiries and credit investigation (NACIC) conducted by the Office of Personnel Management.

License means a license issued pursuant to 10 CFR parts 50, 70, or 72.

Matter means documents or material.

National Security Information means information that has been determined pursuant to Executive Order 12356 or any predecessor order to require protection against unauthorized disclosure and that is so designated.

Need-to-know means a determination by persons having responsibility for classified information or matter, that a proposed recipient's access to such classified information or matter is necessary in the performance of his official, contractual, or licensee duties of employment under the cognizance of the Commission.

Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy (DOE), except that the DOE shall be considered a person to the extent that its facilities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974 and sections 104, 105 and 202 of the Uranium Mill Tailings Radiation Control Act of 1978, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

Q Access Authorization means an access authorization granted by the Commission based on a full field investigation conducted by the Office of Personnel Management, the Federal Bureau of Investigation, or other U.S. Government agency which conducts personnel security investigations.

Restricted Data means all data concerning design, manufacture or utilization of atomic weapons, the production of special nuclear material, or the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Act.

[45 FR 14481, Mar. 5, 1980, as amended at 46 FR 58283, Dec. 1, 1981; 47 FR 38683, Sept. 2, 1982; 48 FR 24320, June 1, 1983; 50 FR 36984, Sept. 11, 1985; 55 FR 11574, Mar. 29, 1990]

§ 25.7 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 25.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). OMB has approved the information collection requirements contained in this part under control number 3150-0046.

(b) The approved information collection requirements contained in this part appear in §§ 25.11, 25.17, 25.21, 25.23, 25.25, 25.27, 25.29, 25.31, 25.33, and 25.35.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In §§ 25.17(b), 25.21(c), 25.27(a), 25.29, and 25.31, NRC Form 237 is approved under control number 3150-0050.

(2) In §§ 25.17(c), 25.21(c), 25.27(b), 25.29, 25.31, SF-86 is approved under control number 3150-0007.

(3) In § 25.21(b), NRC Form 354 is approved under control number 3150-0026.

(4) In § 25.33, NRC Form 136 is approved under control number 3150-0049.

(5) In § 25.35, NRC Form 277 is approved under control number 3150-0051.

[49 FR 19624, May 9, 1984, as amended at 57 FR 3720, Jan. 31, 1992]

§ 25.9 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part should be addressed to the Director, Division of Security, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

§ 25.11 Specific exemptions.

The Commission may, upon application of any interested party, grant an exemption from the requirements of this part 25. Exemptions will be granted only if they are authorized by law and will not constitute an undue risk to the common defense and security. Documentation related to the request, notification and processing of an exemption shall be maintained for three years beyond the period covered by the exemption.

[45 FR 14481, Mar. 5, 1980, as amended at 53 FR 19245, May 27, 1988]

§ 25.13 Maintenance of records.

(a) Each licensee or organization employing individuals approved for personnel security access authorization under this part, shall maintain records as prescribed within the part. These records shall be subject to review and inspection by NRC representatives during security surveys.

(b) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and

complete records during the required retention period. Records such as letters, drawings, specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

[45 FR 14481, Mar. 5, 1980, as amended at 53 FR 19245, May 27, 1988]

ACCESS AUTHORIZATIONS

§ 25.15 Access permitted under “Q” or “L” access authorization.

(a) A “Q” access authorization permits an individual access on a need-to-know basis to (1) Secret and Confidential Restricted Data and (2) Secret and Confidential National Security Information including intelligence information, CRYPTO (i.e., cryptographic information) or other classified communications security (COMSEC) information.

(b) An “L” access authorization permits an individual access on a need-to-know basis to Confidential Restricted Data and Secret and Confidential National Security Information other than the categories specifically included in paragraph (a) of this section. In addition, access to certain Confidential COMSEC information is permitted as authorized by a National Communications Security Committee waiver dated February 14, 1985.

(c) Each employee of the Commission is processed for one of the two levels of access authorization. Licensees and other persons will furnish National Security Information and/or Restricted Data to a Commission employee on official business when the employee has the appropriate level of NRC access authorization and need-to-know. Some individuals are permitted to begin NRC employment without an access authorization. However, no NRC employee shall be permitted access to any classified information until the appropriate level of access authorization has been granted to that employee by NRC.

[45 FR 14481, Mar. 5, 1980, as amended at 47 FR 9195, Mar. 4, 1982; 50 FR 36984, Sept. 11, 1985]

§ 25.17 Approval for processing applicants for access authorization.

(a) Access authorizations shall be requested for licensee employees or other persons (e.g., 10 CFR part 2, subpart I) who need access to National Security Information and/or Restricted Data in connection with activities under parts 50, 70, or 72.

(b) The request must include a completed personnel security packet (see § 25.17(c)) and request form (NRC-237) signed by a licensee or licensee contractor official.

(c)(1) Each personnel security packet submitted, must include the following completed forms:

(i) Questionnaire for Sensitive Positions (SF-86, parts 1 and 2);

(ii) Two Standard fingerprint cards (FD-258);

(iii) Security Acknowledgment (NRC Form 176); and

(iv) Other related forms where specified in accompanying instructions (NRC-254).

(2) Only a Security Acknowledgment (NRC Form 176) need be completed by any person possessing an active access authorization, or who is being processed for an access authorization, by another Federal agency. The active or pending access authorization must be at an equivalent level to that required by the NRC and be based on an adequate investigation not more than five years old.

(d) To avoid delays in processing requests for access authorizations, each security packet should be reviewed for completeness and correctness (including legibility of response on the forms) prior to submittal.

(e) Applications for access authorization or access authorization renewal processing must be accompanied by a check or money order, payable to the United States Nuclear Regulatory Commission, representing the current cost for the processing of each “Q” and “L” access authorization, or renewal request. Access authorization and access authorization renewal fees will be published each time the Office of Personnel Management notifies NRC of a change in the rates it charges NRC for the conduct of investigations. Any such changed access authorization or access authorization renewal fees will

be applicable to each access authorization or access authorization renewal request received upon or after the date of publication. Applications from individuals having current Federal access authorizations may be processed more expeditiously and at less cost, since the Commission may accept the certification of access authorization and investigative data from other Federal Government agencies that grant personnel access authorizations.

[45 FR 14481, Mar. 5, 1980, as amended at 47 FR 9195, Mar. 4, 1982; 48 FR 24320, June 1, 1983; 53 FR 30830, Aug. 16, 1988; 57 FR 3720, Jan. 31, 1992]

§ 25.19 Processing applications.

Each application for access authorization or access authorization renewal, together with its accompanying fee, must be submitted to the NRC Division of Security. If necessary, the NRC Division of Security may obtain approval from the appropriate Commission office exercising licensing or regulatory authority before processing the access authorization or access authorization renewal request. If the applicant is disapproved for processing, the NRC Division of Security shall notify the submitter in writing and return the original application (security packet) and its accompanying fee.

[57 FR 3720, Jan. 31, 1992]

§ 25.21 Determination of initial and continued eligibility for access authorization.

(a) Following receipt by the NRC Division of Security of the reports of the personnel security investigations, the record will be reviewed to determine that granting an access authorization or renewal of access authorization will not endanger the common defense and security and is clearly consistent with the national interest. If such a determination is made, access authorization will be granted or renewed. Questions as to initial or continued eligibility will be determined in accordance with part 10 of chapter I.

(b) The NRC Division of Security must be promptly notified of developments that bear on continued eligibility for access authorization throughout the period for which the authorization is active (e.g., persons who marry

subsequent to the completion of a personnel security packet must report this change by submitting a completed NRC Form 354, "Data Report on Spouse").

(c)(1) Except as provided in paragraph (c)(2) of this section, NRC "Q" and "L" access authorizations must be renewed every five years from the date of issuance. An application for renewal must be submitted at least 120 days before the expiration of the five year period, and must include:

(i) A statement by the licensee or other person that the individual continues to require access to classified National Security Information or Restricted Data; and

(ii) A personnel security packet as described in § 25.17(c).

(2) Renewal applications and the paperwork required for renewal applications are not required for individuals who have a current and active access authorization from another Federal agency and who are subject to a reinvestigation program by that agency that is determined by NRC to meet NRC's requirements (the DOE Reinvestigation Program has been determined to meet NRC's requirements). For such individuals, the submission of the SF-86 by the licensee or other person to the other government agency pursuant to their reinvestigation requirements will satisfy the NRC renewal submission and paperwork requirements, even if less than five years has passed since the date of issuance or renewal of the NRC "Q" or "L" access authorization. Any NRC access authorization continued in response to the provisions of this paragraph will, thereafter, not be due for renewal until the date set by the other government agency for the next reinvestigation of the individual pursuant to the other agency's reinvestigation program. However, the period of time for the initial and each subsequent NRC "Q" or NRC "L" renewal application to NRC may not exceed seven years. Any individual who is subject to the reinvestigation program requirements of another Federal agency but, for administrative or other reasons, does not submit reinvestigation forms to that agency within seven years of the previous submission, shall submit a renewal application to NRC

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using the forms prescribed in § 25.17(c) before the expiration of the seven year period.

[45 FR 14481, Mar. 5, 1980, as amended at 57 FR 3720, Jan. 31, 1992; 57 FR 41376, Sept. 10, 1992; 60 FR 26357, May 17, 1995]

§ 25.23 Notification of grant of access authorization.

The determination to grant or renew access authorization will be furnished in writing to the licensee or organization that initiated the request. Upon receipt of the notification of original grant of access authorization, the licensee or organization shall obtain, as a condition for grant of access authorization and access to classified information, an executed "Classified Information Nondisclosure Agreement" (SF-312) from the affected individual. The individual shall also be given a security orientation briefing in accordance with § 95.33 of this chapter. The signed SF-312 must be promptly forwarded to the NRC Division of Security. Records of access authorization grant and renewal notification must be maintained by the licensee or other organization for three years after the access authorization has been terminated by the NRC Division of Security. This information may also be furnished to other representatives of the Commission, to licensees, contractors, or other Federal agencies. Notifications of access authorization will not be given in writing to the affected individual except:

(a) In those cases in which the determination was made as a result of a Personnel Security Hearing or by Personnel Security Review Examiners, or

(b) When the individual also is the official designated by the licensee to whom written NRC notifications are forwarded.

[57 FR 3721, Jan. 31, 1992]

§ 25.25 Cancellation of requests for access authorization.

When a request for an individual's access authorization or renewal of access authorization is withdrawn or cancelled, the requestor shall notify the NRC Division of Security immediately by telephone so that the full field investigation, National Agency Check with Credit Investigation or other per-

sonnel security action may be discontinued. The requestor shall identify the full name and date of birth of the individual, the date of request, and the type of access authorization ("Q" or "L") or access authorization renewal requested. The requestor shall confirm each telephone notification promptly in writing.

[57 FR 3721, Jan. 31, 1992]

§ 25.27 Reopening of cases in which requests for access authorizations are cancelled.

(a) In conjunction with a new request for access authorization (NRC Form 237) for individuals whose cases were previously cancelled, new fingerprint cards (FD-257) in duplicate and a new Security Acknowledgment (NRC Form 176) must be furnished to the NRC Division of Security along with the request.

(b) Additionally, if 90 days or more have elapsed since the date of the last Questionnaire for Sensitive Positions (SF-86), the individual must complete a personnel security packet (see § 25.17(c)). The NRC Division of Security, based on investigative or other needs, may require a complete personnel security packet in other cases as well. A fee, equal to the amount paid for an initial request, will be charged only if a new or updating investigation is required.

[57 FR 41376, Sept. 10, 1992]

§ 25.29 Reinstatement of access authorization.

An up-to-date personnel security packet will be furnished with a request for reinstatement of an access authorization if 6 months or more have elapsed since termination of access authorization and a year or more has elapsed since the date of the previous Questionnaire for Sensitive Positions, or if any significant changes are known to have occurred since the termination. A new Security Acknowledgment will be obtained in all cases. Where personnel security packets are not required, a request for reinstatement shall state the level of access authorization to be reinstated and the full name and date of birth of the individual in order to establish positive identification. A fee,

equal to the amount paid for an initial request, will be charged only if a new or updating investigation is required.

[45 FR 14481, Mar. 5, 1980, as amended at 53 FR 30830, Aug. 16, 1988]

§25.31 Extensions and transfers of access authorizations.

(a) The NRC Division of Security may, on request, extend the authorization of an individual who possesses an access authorization in connection with a particular employer or activity, to permit access to National Security Information and/or Restricted Data in connection with an assignment with another employer or activity.

(b) The NRC Division of Security may, on request, transfer an access authorization when an individual's access authorization under one employer or activity is terminated, simultaneously with the individual being granted access authorization for another employer or activity.

(c) Requests for extension or transfer of access authorization shall state the full name of the person, his date of birth and level of access authorization. The Director, Division of Security, may require a new personnel security packet (see §25.17(c)) to be completed by the applicant. A fee, equal to the amount paid for an initial request, will be charged only if a new or updating investigation is required.

(d) The date of an extension or transfer of access authorization may not be used to determine when a request for renewal of access authorization is required. Access authorization renewal requests must be timely submitted, in accordance with §25.21(c).

[45 FR 14481, Mar. 5, 1980, as amended at 48 FR 24320, June 1, 1983; 57 FR 3721, Jan. 31, 1992]

§25.33 Termination of access authorizations.

(a) Access authorizations will be terminated when:

(1) Access authorization is no longer required, or

(2) An individual is separated from the employment or the activity for which he obtained an access authorization for a period of 90 days or more, or

(3) An individual, pursuant to 10 CFR part 10, is no longer eligible for access authorization.

(b) A representative of the licensee or other organization which employs the individual whose access authorization will be terminated shall immediately notify the NRC Division of Security when the circumstances noted in paragraph (a)(1) or (a)(2) of this section exist; inform the individual that his access authorization is being terminated, and the reason; and that he will be considered for reinstatement of access authorization if he resumes work requiring it.

(c) When an access authorization is to be terminated, a representative of the licensee or other organization shall conduct a security termination briefing of the individual involved, explain the Security Termination Statement (NRC Form 136) and have the individual complete the form. The representative shall promptly forward the original copy of the completed Security Termination Statement to the NRC Division of Security, Office of Administration, Washington, DC 20555.

[45 FR 14481, Mar. 5, 1980, as amended at 48 FR 24320, June 1, 1983; 52 FR 31611, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989]

CLASSIFIED VISITS

§25.35 Classified visits.

Visits to NRC, NRC contractor, licensee or licensee related facilities, or other government agencies or their contractors involving access to classified information by individuals covered by this part require advance certification of "need-to-know" and verification of NRC access authorization. Individuals planning these visits shall complete NRC Form 277, "Request for Visit or Access Approval," with the "need-to-know" certified by the appropriate NRC office exercising licensing or regulatory authority. This NRC office shall then forward the request to the NRC Division of Security at least 15 days in advance of the date of the visit for appropriate verification of NRC access authorization. The Division of Security shall forward the form to the facility to be visited. Records related to these

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visits must be maintained by the facility for three years following the expiration date of the visit authorization.

[48 FR 24320, June 1, 1983, as amended at 53 FR 19245, May 27, 1988]

VIOLATIONS

§ 25.37 Violations.

(a) An injunction or other court order may be obtained to prohibit a violation of any provision of:

- (1) The Atomic Energy Act of 1954, as amended;
- (2) Title II of the Energy Reorganization Act of 1974, as amended; or
- (3) Any regulation or order issued under these Acts.

(b) National Security Information is protected under the requirements and sanctions of Executive Order 12356.

[48 FR 24320, June 1, 1983, as amended at 57 FR 55072, Nov. 24, 1992]

§ 25.39 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 25 are issued under one or more of sections 161b, 161i, or 161o, except for the sections listed in paragraph (b) of this section.

(b) The regulations in part 25 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 25.1, 25.3, 25.5, 25.7, 25.8, 25.9, 25.11, 25.19, 25.25, 25.27, 25.29, 25.31, 25.37, and 25.39.

[57 FR 55072, Nov. 24, 1992]

APPENDIX A TO PART 25—FEES FOR NRC ACCESS AUTHORIZATION

Category	Fee
Initial "L" Access Authorization	1 \$67
Reinstatement of "L" Access Authorization	1 67
Extension or Transfer of "L" Access Authorization	1 67
Initial "Q" Access Authorization	3,800
Initial "Q" Access Authorization (expedited processing)	4,300
Reinstatement of "Q" Access Authorization	23,800
Reinstatement of "Q" Access Authorization (expedited processing)	24,300
Extension or Transfer of "Q"	23,800

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Category	Fee
Extension or Transfer of "Q" (expedited processing)	24,300

¹ If the NRC determines, based on its review of available data, that a full field investigation is necessary, a fee of \$3,800 will be assessed prior to the conduct of the investigation.

² Full fee will only be charged if investigation is required.

[58 FR 44436, Aug. 23, 1993]

PART 26—FITNESS FOR DUTY PROGRAMS

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AUTHORITY: Secs. 53, 81, 103, 104, 107, 161, 68 Stat. 930, 935, 936, 937, 948, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2111, 2112, 2133, 2134, 2137, 2201, 2297f); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

SOURCE: 54 FR 24494, June 7, 1989, unless otherwise noted.