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SOURCE: 47 FR 38676, Sept. 2, 1982, unless otherwise noted.

Subpart A—General Provisions

§ 10.1 Purpose.

(a) This part establishes the criteria, procedures, and methods for resolving questions concerning:

(1) The eligibility of individuals who are employed by or applicants for employment with NRC contractors, agents, and licensees of the NRC, individuals who are NRC employees or applicants for NRC employment, and other persons designated by the Deputy Executive Director for Management Services of the NRC, for access to Restricted Data pursuant to the Atomic

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Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, or for access to national security information; and

(2) The eligibility of NRC employees, or the eligibility of applicants for employment with the NRC, for employment clearance.

(b) This part is published to implement the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, Executive Order 10865, 25 FR 1583 (February 24, 1960) Executive Order 10450, 18 FR 2489 (April 27, 1954), and Executive Order 12968, 60 FR 40245 (August 2, 1995).

[64 FR 15641, Apr. 1, 1999]

§ 10.2 Scope.

The criteria and procedures in this part shall be used in determining eligibility for NRC access authorization and/or employment clearance involving:

(a) Employees (including consultants) of contractors and agents of the Nuclear Regulatory Commission and applicants for employment;

(b) Licensees of the NRC and their employees (including consultants) and applicants for employment;

(c) NRC employees (including consultants) and applicants for employment; and

(d) Any other person designated by the Deputy Executive Director for Management Services of the Nuclear Regulatory Commission.

[47 FR 38676, Sept. 2, 1982, as amended at 64 FR 15641, Apr. 1, 1999]

§ 10.3 [Reserved]

§ 10.4 Policy.

It is the policy of the Nuclear Regulatory Commission to carry out its responsibility for the security of the nuclear energy program in a manner consistent with traditional American concepts of justice. To this end, the Commission has established criteria for determining eligibility for access authorization and/or employment clearance

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and will afford those individuals described in § 10.2 the opportunity for administrative review of questions concerning their eligibility for access authorization and/or employment clearance.

§ 10.5 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 Deputy Executive Director for Management Services, is eligible for a security clearance for access to Restricted Data or National Security Information.

Commission means the Nuclear Regulatory Commission of five members or a quorum thereof sitting as a body, as provided by section 201 of the Energy Reorganization Act of 1974, or its designee.

Eligible or Eligibility means both initial eligibility and continued eligibility of an individual for access authorization and/or employment clearance.

Employment Clearance means an administrative determination that an individual (including a consultant) who is an NRC employee or applicant for NRC employment and other persons designated by the Deputy Executive Director for Management Services of the NRC is eligible for employment or continued employment pursuant to subsection 145(b) of the Atomic Energy Act of 1954, as amended.

Hearing Counsel means an NRC attorney assigned by the General Counsel to prepare and administer hearings in accordance with this part.

Hearing Examiner means a qualified attorney appointed by the Director, Office of Administration, to conduct a hearing in accordance with this part.

National Security Information means information that has been determined pursuant to Executive Order 12958 or any predecessor order to require protection against unauthorized disclosure and that is so designated.

NRC Personnel Security Review Panel means an appeal panel appointed by the Deputy Executive Director for Management Services and consisting of

three members, two of whom shall be selected from outside the security field. One member of the Panel shall be designated as Chairman.

Personnel Security Review Examiners are persons designated by the Executive Director for Operations to conduct a review of the record in accordance with this part.

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 Atomic Energy Act of 1954, as amended.

[47 FR 38676, Sept. 2, 1982, as amended at 51 FR 35999, Oct. 8, 1986; 52 FR 31609, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989; 64 FR 15641, Apr. 1, 1999]

Subpart B—Criteria for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance

§ 10.10 Application of the criteria.

(a) The decision as to access authorization and/or employment clearance is a comprehensive, common-sense judgment, made after consideration of all the information, favorable or unfavorable, relevant to whether the granting of access authorization and/or employment clearance would not endanger the common defense and security and would be clearly consistent with the national interest.

(b) The criteria in § 10.11 set forth a number of the types of derogatory information used to assist in making determinations of eligibility for access authorization and/or employment clearance. These criteria are not exhaustive but contain the principal types of derogatory information which create a question as to the individual's eligibility for access authorization and/or employment clearance. While there must necessarily be adherence to such criteria, the NRC is not limited to them, nor precluded from exercising its judgment that information or facts in