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§ 725.14 Public inspection of applications.

Applications and documents submitted to DOE in connection with applications may be made available for public inspection in accordance with the regulations contained in part 702 of this chapter.

§ 725.15 Requirements for approval of applications.

(a) An application for an access permit authorizing access to confidential restricted data in the categories set forth in appendix A of this part (except C-91 and C-24) will be approved only if the application demonstrates that the applicant has a potential use or application for such data in his business, trade, or profession and has filed a complete application form.

(b)(1) An application for an access permit authorizing access to restricted data in category C-24 or secret restricted data in other categories will be approved only if the applicant has a need for such data in his business, trade, or profession and has filed a complete application form.

(2) An application for an access permit authorizing access to Secret Restricted Data in category C-65 Plutonium Production will be approved only if the application demonstrates also that the applicant:

(i) Is directly engaged in a substantial effort to develop, design, build or operate a chemical processing plant or other facility related to his participation in the peaceful uses of atomic energy for which such production rate and cost data are needed; or

(ii) Is furnishing to a permittee having access to C-65 under paragraph (b)(2)(i) of this section, substantial scientific, engineering or other professional services to be used by said permittee in carrying out the activities for which said permittee received access to category C-65.

(3) An application for an access permit authorizing access to Restricted Data in category C-24, isotope separation—subcategory A or B—will be approved only if the application demonstrates also that the applicant:

(i) Possesses technical, managerial and financial qualifications demonstrating that the applicant is poten-

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tially capable of undertaking or participating significantly in the construction and/or operation of production or manufacturing facilities and offers reasonable assurance of adequacy of resources to carry on, alone or with others, uranium enrichment on a production basis or the large-scale manufacture or assembly of precision equipment systems, or is potentially capable of utilizing centrifuge machines in its business for uranium enrichment or for purposes other than uranium enrichment; and is not subject to foreign ownership, control, or influence; and

(A) For subcategory A, desires to determine its interest in participating significantly in a substantial effort to develop, design, build, and operate a uranium enrichment facility or a facility for the manufacture of uranium enrichment equipment.

(B) For subcategory B, proposes to (1) participate significantly in, or is directly participating significantly in, a substantial effort to evaluate alternative processes, develop, design, build, and operate a uranium enrichment facility or a facility for the manufacture of uranium enrichment equipment, or (2) utilize centrifuge machines and related equipment in its business for uranium enrichment or for purposes other than uranium enrichment, or

(ii) Is furnishing to a permittee having access to Category C-24 under the paragraph (b)(3)(i) of this section substantial scientific, engineering, or other professional services to be used by said permittee in carrying out the activities for which said permittee received access to Category C-24.

(4) An application for an access permit authorizing access to Confidential and Secret Restricted Data in C-91, Nuclear Reactors for Rocket Propulsion, will be approved only if the application demonstrates also that the applicant:

(i) Possesses qualifications demonstrating that he is capable of making a contribution to research and development in the field of nuclear reactors for rocket propulsion and is directly engaged in or proposes to engage in a substantial research and development program in such field of work; or

(ii) Is engaged in or proposes to engage in a substantial study program in the field of nuclear reactors for rocket

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propulsion preparatory to the submission of a research and development proposal to DOE; or

(iii) Is furnishing to a permittee having access under paragraph (b)(4) (i) or (ii) of this section substantial scientific, engineering or other professional services to be used by that permittee in a study or research and development program for which said permittee received access.

[41 FR 56778, Dec. 30, 1976, as amended at 52 FR 30139, Aug. 13, 1987]

PERMITS

§ 725.21 Issuance.

(a) Upon a determination that an application meets the requirements of this regulation, the Chief Health, Safety and Security Officer will issue to the applicant an access permit on Form DOE 379.

(b) An Access Permit is not an access authorization. It does not authorize any individual not having an appropriate DOE access authorization to receive Restricted Data. See § 725.24 and part 1016 of this title.

[41 FR 56778, Dec. 30, 1976, as amended at 71 FR 68732, Nov. 28, 2006]

§ 725.22 Scope of permit.

(a) All access permits will as a minimum authorize access, subject to the terms and conditions of the access permit to confidential restricted data in all of the categories set forth in appendix A to this part, except C-91 and C-24.

(b) In addition, access permits may authorize access, subject to the terms and conditions of the access permit to such Secret Restricted Data as is included within the particular category or categories specified in the permit.

(c) In addition, access permits may authorize access, subject to the terms and conditions of the access permit, to such government confidential commercial information as is included within the particular category or categories specified in the permit.

[41 FR 56778, Dec. 30, 1976, as amended at 52 FR 30139, Aug. 13, 1987]

§ 725.23 Terms and conditions of access.

(a) Neither the United States, nor DOE, nor any person acting on behalf of DOE makes any warranty or other representation, expressed or implied, (1) with respect to the accuracy, completeness or usefulness of any information made available pursuant to an access permit, or (2) that the use of any such information may not infringe privately owned rights.

(b) The Chief Health, Safety and Security Officer, on behalf of DOE, hereby waives such rights with respect to any invention or discovery as it may have pursuant to section 152 of the Act by reason of such invention or discovery having been made or conceived in the course of, in connection with, or resulting from access to Restricted Data received under the terms of an access permit. (Note provisions of § 725.23(d).)

(c) Each permittee shall:

(1) Comply with all applicable provisions of the Atomic Energy Act of 1954, as amended, and with parts 810 and 1016 of this title and with all other applicable rules, regulations, and orders of DOE, including such rules, regulations, and orders as DOE may adopt or issue to effectuate the policies specified in the act directing DOE to strengthen free competition in private enterprise and avoid the creation or maintenance of a situation inconsistent with the antitrust laws.

(2) Be deemed to have waived all claims for damages under section 183 of title 35 U.S. Code by reason of the imposition of any secrecy order on any patent application and all claims for just compensation under section 173 of the Atomic Energy Act of 1954, with respect to any invention or discovery made or conceived in the course of, in connection with or as a result of access to Restricted Data received under the terms of the access permit;

(3) Be deemed to have waived any and all claims against the United States, DOE and all persons acting on behalf of DOE that might arise in connection with the use, by the applicant, of any and all information supplied by them pursuant to the access permit;