§ 10.25 NRC Hearing Counsel.

(a) Hearing Counsel assigned pursuant to §10.24 will, before the scheduling of the hearing, review the information in the case and will request the presence of witnesses and the production of documents and other physical evidence relied upon by the Director, Division of Facilities and Security, in making a finding that a question exists regarding the eligibility of the individual for an NRC access authorization and/or an employment clearance in accordance with the provisions of this part. When the presence of a witness and the production of documents and other physical evidence is deemed necessary or desirable for a determination of the issues, the Hearing Counsel, Division of Facilities and Security, will make arrangements for the production of evidence and for witnesses to appear at the hearing by subpoena or otherwise.

(b) Hearing Counsel is authorized to consult directly with individual’s counsel or representative or the individual, if the individual is not so represented, for purposes of reaching mutual agreement upon arrangements for expeditious hearing of the case. Such arrangements may include clarification of issues and stipulations with respect to testimony and contents of documents and other physical evidence. Such stipulations when entered into shall be binding upon the individual and the NRC for the purposes of this part. Prior to any consultation with the individual, the Hearing Counsel shall advise the individual of his or her rights under this part, of his or her right to counsel or other representation, and of the possibility that any statement made by the individual to the Hearing Counsel may be used in subsequent proceedings.

(c) The individual is responsible for producing witnesses in his or her own behalf and/or presenting other evidence before the Hearing Examiner to support the individual’s answer and defense to the allegations contained in the notification letter. When requested by the individual, however, the Hearing Counsel may assist the individual to the extent practicable and necessary. The Hearing Counsel may at his or her discretion request the Director, Division of Facilities and Security, to arrange for the issuance of subpoenas for witnesses to attend the hearing in the individual’s behalf, or for the production of specific documents or other physical evidence, provided a showing of the necessity for assistance has been made.

§ 10.26 Appointment of Hearing Examiner.

The appointment of a Hearing Examiner, pursuant to §10.24 of this part, shall be from a list of qualified attorneys possessing the highest degree of integrity, ability, and good judgment. To qualify, an attorney shall have an NRC “Q” access authorization and may be an employee of the NRC, its contractors, agents or licensees. However, no employee or consultant of the NRC shall serve as Hearing Examiner hearing the case of an employee (including a consultant) or applicant for employment with the NRC; nor shall any employee or consultant of an NRC contractor, agent or licensee serve as Hearing Examiner hearing the case of an employee (including a consultant) or an applicant for employment of that contractor, agent, or licensee. No Hearing Examiner shall be selected who has knowledge of the case or of any information relevant to the disposition of