Nuclear Regulatory Commission


(a) The Deputy Executive Director for Information Services and Administration and Chief Information Officer shall designate an NRC Personnel Security Review Panel to conduct a review of the record of the case. The NRC Personnel Security Review Panel shall be comprised of three members, two of whom shall be selected from outside the security field. To qualify as an NRC Personnel Security Review Panel member, the person designated 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 an NRC Personnel Security Review Panel member reviewing 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 an NRC Personnel Security Review Panel member reviewing the case of an employee (including a consultant) or an applicant for employment of that contractor, agent, or licensee. No NRC Personnel Security Review Panel member shall be selected who has knowledge of the case or of any information relevant to the disposition of it, or who for any reason would be unable to issue a fair and unbiased recommendation.

(b) The NRC Personnel Security Review Panel shall consider the matter under review based upon the record supplemented by any brief submitted by the individual or the Hearing Counsel. The NRC Personnel Security Review Panel may request additional briefs as the Panel deems appropriate. When the NRC Personnel Security Review Panel determines that additional evidence or further proceedings are necessary, the record may be returned to the Deputy Executive Director for Information Services and Administration and Chief Information Officer with a recommendation that the case be returned to the Director, Office of Administration, for appropriate action, which may include returning the case to the Hearing Examiner and reconvening the hearing to obtain additional testimony. When additional testimony is taken by the Hearing Examiner, a
§ 10.33 Action by the Deputy Executive Director for Information Services and Administration and Chief Information Officer.

(a) The Deputy Executive Director for Information Services and Administration and Chief Information Officer, on the basis of the record accompanied by all findings and recommendations, shall make a final determination whether access authorization and/or employment clearance shall be granted, denied, or revoked, except when the provisions of §10.28 (i), (j), or (l) have been used and the Deputy Executive Director for Information Services and Administration and Chief Information Officer determination is adverse, the Commission shall make the final agency determination.

(b) In making the determination as to whether an access authorization and/or an employment clearance shall be granted, denied, or revoked, the Deputy Executive Director for Information Services and Administration and Chief Information Officer shall give due recognition to the favorable as well as the unfavorable information concerning the individual and shall take into account the value of the individual’s services to the NRC’s program and the consequences of denying or revoking access authorization and/or employment clearance.

(c) If, after considering all the factors in light of the criteria set forth in this part, the NRC Personnel Security Review Panel is of the opinion that granting or continuing an access authorization and/or an employment clearance to the individual will not endanger the common defense and security and will be clearly consistent with the national interest, the NRC Personnel Security Review Panel shall make a favorable recommendation; otherwise, the NRC Personnel Security Review Panel shall make an adverse recommendation. The NRC Personnel Security Review Panel shall prepare a report of its findings and recommendations and submit the report in writing to the Deputy Executive Director for Information Services and Administration and Chief Information Officer, who shall furnish a copy to the individual. The findings and recommendations must be fully supported by stated reasons.

[64 FR 15644, Apr. 1, 1999]

§ 10.34 Action by the Commission.

(a) Whenever, under the provisions of §10.28(l), (j), or (l) an individual has not been afforded an opportunity to confront and cross-examine witnesses who have furnished information adverse to the individual and an adverse recommendation has been made by the Deputy Executive Director for Information Services and Administration and Chief Information Officer determination is adverse, the Commission shall make the final agency determination.

(b) In the event of an adverse determination, the Deputy Executive Director for Information Services and Administration and Chief Information Officer shall promptly notify the individual through the Director, Office of Administration, of his or her decision that an access authorization and/or an employment clearance is being denied or revoked and of his or her findings with respect to each allegation contained in the notification letter for transmittal to the individual.

(d) In the event of a favorable determination, the Deputy Executive Director for Information Services and Administration and Chief Information Officer shall promptly notify the individual through the Director, Office of Administration.

[64 FR 15644, Apr. 1, 1999]