§ 10.11 Criteria.

(a) The criteria for determining eligibility for access authorization and/or employment clearance shall relate, but not be limited to, the following where an individual:

(1) Committed, attempted to commit, aided, or abetted another who committed or attempted to commit any act of sabotage, espionage, treason, sedition, or terrorism.

(2) Publicly or privately advocated actions that may be inimical to the interest of the United States, or publicly or privately advocated the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(3) Knowingly established or continued a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, terrorist, or revolutionist, or with an espionage agent or other secret agent or representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Joined or engaged in any activity knowingly in sympathy with or in support of any foreign or domestic organization, association, movement, group, or combination of persons which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or any State or any subdivisions thereof by unlawful means, or which advocate the use of force and violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(5) Deliberately misrepresented, falsified or omitted relevant and material facts from or in a personnel security questionnaire, a personal qualifications statement, a personnel security interview, or any other information submitted pursuant this part.

(6) Willfully violated or disregarded security regulations or was grossly negligent with respect thereto to a degree which could endanger the common...
defense and security; or by intention or gross carelessness disclosed Restricted Data or national security information to any person not authorized to receive it.

(7) Has any illness or mental condition which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the individual.

(8) Has been convicted of crimes indicating habitual criminal tendencies.

(9) Has been convicted of a crime, or has a background, where the facts, circumstances, or conduct are of a nature indicating poor judgment, unreliability, or untrustworthiness.

(10) Is a user of alcohol habitually and to excess, or has been such without adequate evidence of rehabilitation.

(11) Has been, or is, a user of a drug or other substance listed in the schedules of Controlled Substances established pursuant to the Controlled Substances Act of 1970 (such as amphetamines, barbiturates, narcotics, etc.), except as prescribed or administered by a physician licensed to dispense drugs in the practice of medicine, without adequate evidence of rehabilitation.

(12) Refused, without satisfactory explanation, to answer questions before a congressional committee, Federal or state court, or Federal administrative body including the NRC regarding charges relevant to the individual’s eligibility for access authorization and/or employment clearance.

(13) Engaged in any other conduct or is subject to any other circumstances which tend to show that the individual is not reliable or trustworthy, or which furnishes reason to believe that the individual may be subject to coercion, influence, or pressures which may cause the individual to act contrary to the national interest.

§ 10.12 Interview and other investigation.

(a) The Director, Division of Facilities and Security, Office of Administration, may authorize the granting of access authorization and/or employment clearance on the basis of the information in the possession of the NRC or may authorize an interview with the individual, if the individual consents to be interviewed, or other investigation as the Director deems appropriate. On the basis of this interview and/or investigation, the Director may authorize the granting of access authorization and/or employment clearance.

(b) The individual may elect on constitutional or other grounds not to participate in an interview or other investigation; however, such refusal or failure to furnish or authorize the furnishing of relevant and material information is deemed to be derogatory information pursuant to §10.11(a)(5) and (12).

(c) If the Director, Division of Facilities and Security, cannot make a favorable finding regarding the eligibility of an individual for access authorization and/or employment clearance, the question of the individual’s eligibility must be resolved in accordance with the procedures set forth in §10.20 et seq.


Subpart C—Procedures

§ 10.20 Purpose of the procedures.

These procedures establish methods for the conduct of hearings and administrative review of questions concerning an individual’s eligibility for an access authorization and/or an employment clearance pursuant to the Atomic Energy Act of 1954, as amended, and Executive Orders 10450, 10865, and 12968 when a resolution favorable to the individual cannot be made on the basis of the interview or other investigation.

[64 FR 15642, Apr. 1, 1999]

§ 10.21 Suspension of access authorization and/or employment clearance.

In those cases where information is received which raises a question concerning the continued eligibility of an individual for an access authorization and/or an employment clearance, the Director, Division of Facilities and Security, through the Director, Office of Administration, shall forward to the Deputy Executive Director for Corporate Management and Chief Information Officer or other Deputy Executive Director, his or her recommendation as