

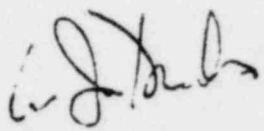
June 19, 1980

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

SECY-80-299

**CONSENT CALENDAR ITEM**

For: ~~The Commissioners~~

From: Daniel J. Donoghue, Director  
Office of Administration 

Thru: Executive Director for Operations

Subject: NUCLEAR REGULATORY COMMISSION (NRC) - PERSONNEL SECURITY  
CLEARANCE PROGRAM MODIFICATIONS

Purpose: To obtain Commission approval to modify a portion of the security clearance processing policy of the NRC Personnel Security Clearance Program.

Category: This paper covers a policy question requiring Commission consideration and action. The resource impact of this paper falls within Category I.

Issue: To implement a change in the NRC Personnel Security Clearance Program which will permit the certification of other Federal agency security clearances and the granting of NRC security clearances based on the certifications. (For the purposes of this paper NRC security clearances include access authorizations.)

Some individuals under consideration for NRC security clearances have already been subject to security background investigations initiated by other Federal agencies. NRC's present policy implementation of Section 145c of the Atomic Energy Act (AEA) of 1954, as amended, requires that copies of these investigations be obtained and reviewed as part of security clearance processing. The certification procedure proposed in this paper will eliminate this requirement.

Alternatives:

1. Process all individuals in accordance with existing NRC personnel security clearance policy and procedures which require the acquisition and actual review of investigative material.
2. Approve a change in NRC's personnel security policy which will remove the requirement for the Division of Security (SEC) to obtain and review investigative data which serves as the basis for existing govern-

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ment security clearances. SEC, through agreements with other Federal agencies and departments will receive certifications of active clearances. Based upon these certifications, NRC may grant security clearances.

Discussion:

Existing NRC personnel security clearance procedures require a review by SEC of background investigative material and reports before an NRC security clearance is granted to an NRC applicant, NRC contractor or NRC licensee. It is particularly noteworthy that some licensee personnel affected by the NRC Classified Safeguards Program possess active security clearances granted by other Federal agencies, primarily the Department of Energy (DOE) and Department of Defense (DOD).

A significant element directly and favorably related to the successful application of this security clearance certification program is the extent to which some degree of commonality and compatibility exists between NRC's and other Federal agencies' security programs. An analysis of the certification procedure and an existing security agreement with the Department of Energy are enclosed (Enclosure 1). The implementing directives, the criteria and the statutory and Executive Order bases for personnel security programs of DOE and DOD are extremely similar to NRC's. It is concluded, therefore, that DOE and DOD security clearances certified under the proposed procedure will meet NRC responsibilities for protection of classified matter under the AEA and Executive Orders.

The alternative approaches to this issue are evaluated as follows:

Alternative 1. The Commission may decide to continue processing all individuals in accordance with existing NRC personnel security clearance procedures.

- Pro:
- a. All individuals are subject to the same security processing considerations.
  - b. SEC makes its own decision on clearance eligibility based on information in the file which SEC has reviewed.

- Con:
- a. Processing time for individuals already possessing the equivalent of NRC "L" and "Q" clearances is not shortened.
  - b. Security investigations serving as the basis for equivalent government security clearances may be duplicated; a duplication in cost and manpower.

Resource Estimate:

The current program would require the existing work force to be maintained. Manpower projections for new or expanding programs involving additional personnel security clearances or access authorizations would be based on security processing which includes the acquisition and review of previous investigative material obtained from other Federal agencies and investigative material obtained from the FBI or OPM.

Alternative 2. The Commission may remove the requirement for SEC to obtain and review investigative data which serves as the basis for an existing equivalent government security clearance. SEC would grant a security clearance based upon a certification of the existing clearance and would not review existing investigative data.

- Pro:
- a. Tends to eliminate duplicative investigations for an equivalent government security clearance.
  - b. Less of an infringement of rights of privacy.
  - c. Individuals already possessing a security clearance may be processed faster by NRC. The procedure may facilitate faster security clearance processing of individuals affected by Part 25 who already possess comparable or higher DOE or DOD security clearance.
  - d. Program conforms to GAO recommendations to avoid duplicate investigations and security processing on an individual requiring more than one government security clearance.

- Con:
- a. Scope of some investigations would be slightly different.
  - b. SEC not in complete control of all security information related to clearance.

- c. Must rely on participating agencies to have made same clearance decision NRC would have made with information available.

Resource Estimate:

This procedure would be applicable in those program areas where individuals require an NRC security clearance and already possess another Federal agency's or department's clearance. In each certification case SEC personnel must still review the personnel security information and investigative data which has been certified. This procedure will not require any new resources. The use of current investigations serving as the basis for existing security clearances should result in fewer investigations being requested from FBI and OPM. This will reduce the NRC financial resources required for investigation requests.

Recommendation:

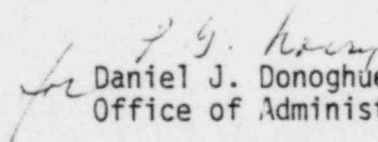
That the Commission:

Approve the concept of certification as identified in Alternative 2. This alternative and recommendation require that the Commission, pursuant to Section 145c of the AEA approve a change in NRC personnel security policy which now requires an investigation report be received by the Commission. This approval by the Commission will eliminate the need for NRC to receive and review reports of investigations.

Note that this approval will alter the personnel security processing requirements for licensee personnel affected by 10 CFR Part 25. To document this change, section 25.17 of Part 25 should be modified as outlined in Enclosure 2 and approved for publication in the Federal Register as a final rule.

Coordination:

This paper has been coordinated with the Department of Energy and the Department of Defense. The Offices of Nuclear Material Safety and Safeguards and Inspection and Enforcement concur in this recommendation. The Office of the Executive Legal Director has no legal objection to the recommendation of this paper.

  
Daniel J. Donoghue, Director  
Office of Administration

Enclosures:

1. Analysis of Certification Procedure and NRC-DOE Agreement for Cooperation in Security Matters
2. Proposed change to 10 CFR Part 25

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Monday, July 7, 1980.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT June 27, 1980, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an Open Meeting during the Week of July 14, 1980. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

DISTRIBUTION

Commissioners  
Commission Staff Offices  
Exec Dir for Operations  
ACRS  
Secretariat

Analysis of Certification Procedure

and

NRC-DOE Agreement for Cooperation in

Security Clearance Matters

Through agreements with other agencies, the Nuclear Regulatory Commission (NRC) will obtain a written certification of an individual's clearance. This clearance certification will contain information which includes the basis on which the clearance was granted and a statement that no unresolved derogatory information exists regarding the individual. . . clearance certification from another agency and a new NRC security forms packet, or a portion of it or its equivalent, may serve as the basis for granting an NRC security clearance. Under this certification program no additional information or security processing would be necessary. This new procedure will be established in accordance with federally acceptable personnel security practices and procedures and shall be in compliance with applicable Executive Order and Federal statutes.

Current NRC practices limit the age of investigative material which serves as the basis for a clearance approval to not more than 5 years. The proposed clearance certification procedure will eliminate the need to review existing reports of investigations which are less than 5 years old and which serve as the basis for active clearances granted by other Federal agencies. Other security clearances based on investigations which are more than 5 years old will need to be updated before an NRC security clearance is approved. The only exception to this policy will be those licensee personnel initially falling under the newly approved Classified Safeguards Program who already possess a Department of Energy (DOE) or Department of Defense (DOD) security clearance. These individuals, regardless of the age of the last investigation, will be approved for NRC security clearances ("grandfathered in") based on a certification of their existing clearance and their pledge to afford NRC classified matter the appropriate protection (NRC Form 176, "Security Acknowledgment").

The majority of individuals with whom NRC shares a common security clearance interest have been cleared, as indicated above, by DOE or DOD. Following is a comparison of pertinent features of NRC's, DOE's, and DOD's personnel security programs.

The security clearance processing of direct employees of the NRC, DOE, and DOD are all basically governed by E.O. 10450, "Security Requirements for Government Employment." Additionally, NRC and DOE apply requirements from the Atomic Energy Act (AEA) of 1954, as amended, for the protection of Restricted Data (RD). The security processing of all Federal contractors must meet the requirements of E.O. 10865 which NRC, DOE, and DOD all follow. Likewise, the general protection of all National Security Information (NSI) is governed by E.O. 12065, the provisions of which all Federal agencies must implement. These statutes and Executive Orders provide the common framework and basis upon which individuals are processed for government security clearances.

While each agency and department must adhere to these basic statutes, their individual implementing regulations may vary slightly. Having once been part of the same agency, the DOE and NRC continue to use practices and procedures which are nearly identical. Except for minor differences in the designation of security clearance levels, other aspects such as background investigations (i.e., investigative agencies and scope of investigations) and the criteria for determining eligibility for access to RD or NSI remain the same. On this basis we believe that DOE would make the same clearance approval that NRC would, given the same background and investigative information. We conclude, therefore, that DOE security clearances certified under this proposed procedure will meet NRC responsibilities for protection of classified matter under the AEA and Executive Orders.

The DOD regulations which implement the basic Executive Orders governing the Federal security programs are also similar to NRC's. They differ slightly in the designation of security clearance levels (i.e., DOD grants Top Secret (TS), Top Secret Special Intelligence (TSSI), Secret (S) and Confidential (C) security clearances). The investigative basis (scope of investigation) for a TSSI clearance is nearly identical to that required for an NRC "Q" clearance. DOD investigations are conducted by the Defense Investigative Service and the Defense National Agency Check Center whereas NRC and DOE investigations are conducted by the Federal Bureau of Investigation (FBI) and the Office of Personnel Management (OPM). In nearly all cases, the basic scope of a national agency check or national agency check and inquiry investigation is met by Federal departments and agencies. The criteria for determining eligibility for access to NSI used by DOD and the level of access permitted under each clearance are similar to those of NRC and DOE. On this basis we believe that DOD would also make the same security clearance approval as NRC, given the same information. Based on these similarities and the commonality which exists between the NRC and DOD security programs, we conclude that DOD security clearances certified under this proposed procedure will meet NRC responsibilities for protection of classified matter under the AEA and Executive Orders.

In order to implement a certification program with DOE, a DOE-NRC Working Agreement for Cooperation in Security Clearance Matters has been signed and is part of this enclosure. Implementation will occur upon Commission approval of the recommended policy change. A similar agreement is also being coordinated with the DOD.

The certification of an individual's clearance granted by another Federal agency with whom NRC shares a common personnel security interest shall be processed in writing. Requests for certification and responses shall include the individual's full name, date of birth, social security number, and type or level of clearance. The individual's present and past clearance status, file number and investigative basis of clearance (i.e., date, agency, and type) will also be provided. The reply to a certification request will also state that the individual's personnel security file reveals no unresolved derogatory information. Normal security clearance practices and procedures will be followed if this statement cannot be made. The agency granting clearance based on a certification shall inform the certifying agency of the clearance action taken. The certifying agency shall then annotate its files to reflect the other agency's clearance action. Each agency will advise the other of the termination of a certified clearance or the development of any substantially derogatory information which might lead or has led to suspension, revocation, or denial of clearance of any individual of common interest.

This certification process, in conjunction with a favorable review of new or updated NRC security forms, will serve as the basis for granting an NRC security clearance. In the case of licensee personnel affected by Part 25, a properly certified DOE or DOD security clearance, in conjunction with a request for clearance (NRC Form 237) and "Security Acknowledgment" (NRC Form 176), will serve as the basis for granting an NRC security clearance.



DOE-NRC WORKING AGREEMENT  
FOR  
COOPERATION IN SECURITY CLEARANCE MATTERS

Enclosure 1

DOE-NRC WORKING AGREEMENT  
FOR  
COOPERATION IN SECURITY CLEARANCE MATTERS

I. Purpose

The DOE-NRC Memorandum of Understanding dated February 24, 1978 addresses broad policy matters between the two agencies and provides that additional agreements shall be developed to further its purposes. This agreement addresses the interagency procedures to be followed by one agency in ascertaining the clearance status of an individual who possesses a security clearance granted by the other agency. Therefore, the procedures are intended to expedite the granting of clearances. It will also minimize the need for physical transfer of individual security files between the agencies.

II. Definitions

Agency, as used herein, means either the Department of Energy (DOE) or the Nuclear Regulatory Commission (NRC).

Individual of Common Interest, means an individual who has need for a security clearance by both DOE and NRC.

Security Clearance, as used herein, means an administrative determination that an individual (including a consultant) who is employed by, or is an applicant for employment with, DOE or NRC or their contractors, agents, or licensees, or others is eligible for access to classified information.

III. Background

The personnel security clearance programs of DOE and NRC are both based on the Atomic Energy Act of 1954, as amended, and Executive Orders 10450 and 10865, as amended. Since both agencies generally use the same basic criteria in determining an individual's eligibility for access to classified information, the requirements of one agency should satisfy the other except in unusual cases.

The number of persons who require access authorization under both DOE and NRC programs has increased significantly and is expected to continue to increase in the future.

IV. Procedures

- A. It is agreed that all requests by one agency for certification as to security clearance status of an individual who already possesses a security clearance granted by the other agency shall be in writing. Such requests shall include the full name, date of birth, social security number, and type of clearance (e.g., "L" or "Q") requested.
- B. Upon receipt of a request, the receiving agency, assuming that resources are available, shall promptly certify the security clearance of the individual in writing to the requesting agency. The reply will state the full name, date of birth, social security number, present and past clearance status, file number, and investigative basis of clearance (i.e., date, agency, and type). The reply shall also state that "The personnel security file on the individual reveals no unresolved derogatory information." If this statement cannot be made, the receiving agency will transmit the individual's personnel security file to the requesting agency for review. The DOE will in all cases review the investigative reports in the security files prior to granting DOE clearances. The requesting agency shall inform the receiving agency of the clearance action taken and each agency shall thereupon annotate their files to reflect the DOE and NRC clearance status.
- C. Each agency will immediately advise the other of the development of substantially derogatory information which might lead to suspension, revocation, or denial of clearance of any individual of common interest.
- D. Neither agency is precluded from requiring an individual of common interest to complete an updated set of Personnel Security Questionnaires or other personnel security forms, or to effect a review of the investigative and related record in the individual's personnel security file.
- E. Further, this agreement does not affect the requirements of authorization for access to weapons data, production and stockpile information, intelligence data, naval nuclear propulsion information, or any other classified information for which there are special controls.
- F. There shall be a single point of contact within each agency for certifying security clearance status. The DOE point of contact is the Director, Division of Security. The NRC point of contact is the Director, Division of Security.

V. Implementation

DOE and NRC agree immediately to implement this agreement. Any modification or change to the agreement desired by either agency shall be formally agreed upon by both agencies prior to implementation.

Further, each agency will apprise the other of any changes to current practices and procedures, including changes in the interpretation of security clearance criteria.

Approved for DOE:

Approved for NRC:

*George Weisz*  
George Weisz, Director  
Office of Safeguards and Security

*December 28/79*  
Date

*Raymond J. Brady*  
Raymond J. Brady, Director  
Division of Security

*January 4, 1980*  
Date

PROPOSED CHANGE TO 10 CFR PART 25

25.17 Approval for processing applicants for access authorization.

\* \* \* \* \*

(c) Each personnel security packet so submitted, shall include the following completed forms:

- (1) \* \* \*
- (2) \* \* \*
- (3) \* \* \*
- (4) \* \* \*
- (5) \* \* \*
- (6) \* \* \*

Only a Security Acknowledgement (NRC Form 176) need be completed by any person currently possessing a final access authorization granted by another Federal agency providing the access authorization is at an equivalent level to the requested NRC access authorization. Forms identified in paragraphs (c)(1) and (2) of this section must be typed.

(d) \* \* \*

(e) Applications for access authorization processing must be accompanied by a check or money order, payable to the United States Nuclear Regulatory Commission, representing the current cost for the processing of each "Q" and "L" access authorization request. Access authorization fees will be published in December of each year and will be applicable to each access authorization request received during the following calendar year. Applications from individuals having current Federal access authorizations may be processed expeditiously at less cost, since the Commission may accept the certification of access authorizations and investigative data from other Federal Government agencies which grant personnel access authorizations.