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SEC CEN FILE: LRD 3.00.05  
PER 1.00.01

JAN 28 1985

NOTE TO: Robert F. Burnett, Director  
Division of Safeguards, NMSS

FROM: Raymond J. Brady, Director  
Division of Security, ADH

SUBJECT: AMENDMENT OF 10 CFR PART 11 - REVISED CRITERIA AND PROCEDURES  
FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL  
NUCLEAR MATERIAL

SEC has reviewed the Part 11 package which you plan to forward for authority to initiate rulemaking and has made some comments which are written on the attached copy of the package. We've also included our recommendations for three new sections dealing with some additional administrative aspects of notification, cancellation and termination of access authorizations. We will concur upon incorporation of these comments.

There may be several instances where the words of issuance need to be checked against the instructions found in NUREG/BR-0053, "Regulations Handbook."

We look forward to receiving a revised package for concurrence.

Original Signed By  
Raymond J. Brady

Raymond J. Brady, Director  
Division of Security, ADH

Attachment: As stated

bcc w/encl:  
J. J. Dunleav  
L. P. Himmels  
R. R. Rentsch

~~MG: None~~

Russ

We've included your  
original package to us.

<sup>3</sup> R comments appear on the 2<sup>d</sup> (draft) Dick  
copy. These were incorporated into the  
package sent to Fournier/Vogeli. Dopp

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1/28/85

OFFICE	POSB	POSB			
SURNAME	LPHimmelsbach	RADopp	JJDunleavy	FAMaturo	
DATE	1/24/85 ss	1/25/85	1/25/85	1/28/85	1/28/85

**TITLE:**

Revised Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material

**CFR CITATION:**

10 CFR 11

**ABSTRACT:**

This rulemaking amends requirements for using only NRC forms when requesting special nuclear material access authorizations and allows use of other federal agency forms. This avoids needless duplication in administration and investigation for individuals currently cleared by such agencies on the basis of equivalent background investigations. The rule change allows renewal of access authorizations under the schedule of DOE's Selective Reinvestigation Program if the DOE personnel clearance is equivalent. The rule also incorporates changes in fees and the schedule for fee determination.

**TIMETABLE:**

Publish as a final rule issued by the EDO during the third quarter of FY85.

**LEGAL AUTHORITY:**

Sec. 7, Pub. L. 93-377, 88 Stat. 475; Sec. 1611, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201(f)); Sec. 201, as amended, Pub. L. 23-439, 68 Stat. 1242, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5841). Sec. 11.15(e) also issued under the authority of (31 U.S.C. 9701).

**EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: No**

**AGENCY CONTACT:**

Russel R. Rentschler  
Office of Nuclear Material Safety and Safeguards  
Washington, D.C. 20555  
301 427-4761

## EVALUATION OF RULEMAKING

TITLE: AMENDMENT OF 10 CFR PART 11, REVISED CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

1. The issue to be addressed.

This rulemaking amends the language of the sections of 10 CFR Part 11 which specify the requirements for applications and renewals of Material Access Authorizations. It eliminates the requirement for use of only NRC Forms so as to allow acceptance of documentation on individuals who possess current personnel clearances based upon equivalent investigations. It allows certification of DOE and, to a smaller degree, DOD documentation.

2. The necessity and urgency of addressing this issue.

Adoption of the amendments would eliminate unnecessary and duplicative expenditures of administrative and investigative effort and cost in carrying out the Material Access Authorization Program.

3. Alternatives to rulemaking.

Staff has explored the possibility of eliminating the unnecessary duplication in documentation by granting an exemption from the regulation. The Office of the Executive Legal Director has advised that such action would cause certain legal problems in case of appeals.

4. How the issue will be addressed through rulemaking.

The rulemaking will explicitly authorize the use of DOE documentation for those individuals possessing current personnel clearances based upon equivalent investigations. It will also allow use of the DOE system of renewals.

5. Effect which the rulemaking has on the public, industry, and NRC.

This rulemaking eliminates initial and renewal applications for the category of licensee or licensee-contractor employees who possess personnel clearances based upon equivalent investigations made by other agencies. There is no effect upon the public by this administrative change to regulation. Industry will be relieved of certain duplicative requirements and expenses. The NRC will be relieved of certain administrative requirements which are replaced by less demanding requirements.

6. NRC resources and scheduling needed for the rulemaking.

Approximately one half staff-year will be expended from now until a final rule is prepared. The schedule for completing the amendment is six months.

AGENCY CONTACT:

Russel R. Rentschler  
Office of Nuclear Material Safety and Safeguards  
Washington, D.C. 20555  
301 427-4761

## REGULATORY FLEXIBILITY CERTIFICATION

The Commission hereby certifies that this rule will not have a significant adverse impact upon a substantial number of small entities due to the facts that follow:

Less than ten licensees will be affected by this rulemaking; only administrative requirements are affected; requirements which duplicate those of other Federal agencies will be reduced or eliminated.

### LIST OF SUBJECTS IN 10 CFR Part 11

Part 11 - Hazardous materials - transportation, nuclear materials, reporting and recordkeeping requirements, security measures, special nuclear material.

Part 11 Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material

1. The authority citation for Part 11 continues to read as follows:

Authority: Sec. 7, Pub. L 93-377, 88 Stat. 475; Sec. 1611, Pub. L 83-703, 68 Stat. 948 (42 U.S.C. 2201(1)); Sec. 201, as amended, Pub. L 23-439, 68 Stat. 1242, Pub. L 94-79, 89 Stat. 413 (42 U.S.C. 5841). Sec. 11.15(e) also issued under the authority of (31 U.S.C. 9701).

ENCLOSURE B

2. Section 11.7(c) is amended to read as follows:

"NRC-'U' special nuclear material access authorization" means an administrative determination based upon a national agency check and a full-field background investigation, normally conducted by the Office of Personnel Management, that an individual in the course of employment is eligible to work at a job falling within the criteria of §11.11(a)(1) or 11.13.

3. Section 11.8 is added to read as follows:

*This section has already been "added", per DEB/ADM's late 1984 Action (AFR 19623). This item #3 should be deleted.*

§11.8 Information collection requirements" OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). OMB has approved the information collection requirements contained in this part under control number 3150-0062.

(b) The approved information collection requirements contained in this part appear in §§ 11.9, 11.11, 11.13, and 11.15.

4. Section 11.11(a) is amended to read as follows:

§ 11.11 General Requirements. ✓

(a) Each licensee who [~~after-February-19, 1981,~~] uses, processes, stores, transports, or delivers to a carrier for transport, formula quantities of special nuclear material (as defined in Part 73 of this chapter) subject to the physical protection requirements of §§ 73.20, 73.25, 73.26, 73.45, and 73.46 of Part 73 of this chapter and each person subject to the general licensing requirements of § 70.20(a) shall identify at its facility or plant (excluding all non-power reactor facilities and storage of fuel incident thereto and facilities and plants in which the licensee possesses or uses only irradiated special nuclear material subject to the exemption of § 73.6(b) of Part 73 of this chapter), describe, and if not already provided, provide to the Commission, [~~by-January-18, 1982,~~] within 60 days <sup>of the effective date of these amendments</sup> by amendment to its security plan: ✓

5. Section 11.11(b) is amended to read as follows:

(b) [~~After-(265-days-following-Commission-approval-of-the-amended-security-plan-submitted-in-accordance-with-paragraph(s)-of-this-section.)~~] No individual may be permitted to work at any job determined by the Commission to fall within the criterion of paragraph (a)(1) of this section without an NRC-U special nuclear material access authorization, and no individual may be permitted unescorted access to any protected area at any site subject to this part



without either an NRC-U or NRC-R special nuclear material access authorization. [An exception is provided for any individual employed on the effective date of these amendments, and not yet in receipt of an approved access authorization from the Commission, provided that a complete application was submitted for that employee in accordance with § 11.15 and the application has not been disapproved.]

Exceptions to the requirement for an NRC-U special nuclear material access authorization for an individual to work at a job within the criteria of paragraph (a)(1) are provided for (i) any individual employed in such a job who is not <sup>yet</sup> in receipt of an NRC-U special nuclear material access authorization from the Commission, provided that a complete application has been submitted <sup>to and is pending before the NRC</sup> for processing for that employee in accordance with § 11.15(b) <sup>or</sup> (ii) any individual in possession of an NRC-L or R access authorization or an equivalent active federal security clearance but not <sup>yet</sup> in receipt of the NRC-U special nuclear material access authorization provided that a complete application has <sup>to and is pending before the NRC</sup> been submitted for processing for that employee in accordance with § 11.15(b). ✓

Exceptions to the requirement for an NRC-R special nuclear material access authorization for an individual to have unescorted access to a protected area are provided for (i) any individual employed <sup>ON the effective date of these amendments</sup> in such a job who is not <sup>yet</sup> in receipt of an NRC-R special nuclear material access authorization from the Commission, provided that a complete application has been submitted <sup>to and is pending before the NRC</sup> for processing for that employee in accordance with § 11.15(b); <sup>or</sup> (ii) any individual in possession of an NRC-L access authorization or an equivalent ✓

active federal security clearance, provided that a complete application has  
to and is pending before the NRC  
been submitted for processing for that employee in accordance with § 11.15(b). ✓

6. Section 11.13(a) is amended to read as follows:

(a) ~~[All individuals who after 265 days following approval of the amended security plan submitted in accordance with § 11.11(a)].~~ No individual shall  
transport, [arrange for transport] drive motor vehicles in road shipments of  
special nuclear material, pilot aircraft in air shipments of special nuclear  
material, act as monitors at transfer points or escort road, rail, sea, or air  
shipments of special nuclear material subject to the appropriate physical  
protection requirements of §§ 73.20, 73.26, or 73.27 of this chapter or be  
authorized to adjust such transport without [shall have] NRC-U special nuclear  
material access authorization. [An exception is provided for any individual  
employed on the effective date of these amendments and not yet in receipt of an  
approved access authorization from the Commission provided that a complete  
application as submitted for that employee in accordance with § 11.15(b) and  
the application has not been disapproved.] Exceptions are provided for (i) any  
employed in such a job on the effective date of these amendments and  
~~exclude~~ individual who is not, in receipt of an NRC-U special nuclear material ✓  
access authorization from the Commission, provided that a complete application  
to and is pending before the NRC  
has been submitted for processing for that employee in accordance with ✓  
§ 11.15(b) or (ii) any individual in possession of an NRC-L or R access ✓  
authorization or equivalent active Federal security clearance but not in ✓  
receipt of the NRC-U, special nuclear material access authorization, provided  
that a complete application has been submitted for processing for that ✓  
employee in accordance with § 11.15(b).

7. Section 11.13(b) is amended to read as follows:

[after ~~365~~ days]

Licensees who [after ~~November 23, 1981~~], following Commission approval of ✓  
the amended security plan submitted in accordance with § 11.11(a), transport or  
deliver to a carrier for transport special nuclear material subject to the  
physical protection requirements of §§ 73.20, 73.26, 73.27 of this chapter  
shall confirm and record prior to shipment the name and special nuclear  
material access authorization number of all individuals identified in  
paragraph (a) of this section assigned to the shipment. [An ~~exception~~]

*However, the licensee need not confirm and  
record the special nuclear material access  
authorization number in the case of any  
individual for whom an application has  
been submitted and is pending before  
the NRC, per paragraph (a), above.*

8. Section 11.15(a) is renumbered as 11.15(a)(1).

9. A new Section 11.15(a)(2) is added to read as follows:

Licensees who wish to secure NRC-U or NRC-R special nuclear material  
access authorizations for individuals in possession of an active NRC<sup>"Q" or "L"</sup> access ✓  
authorization or other security clearance granted by another federal agency  
based on an equivalent investigation shall submit a "Security Acknowledgement" ✓  
(Form 176), and a "Request for Access Authorization" (NRC Form 237). The NRC ✓  
will process such requests by verifying the data on an NRC cleared individual,  
or contacting the federal agency which granted the clearance and requesting  
certification of the security clearance and determine the investigative basis  
and level of such clearance. Licensees may directly request the federal agency  
which administered the security clearance, if other than NRC, to certify to  
the NRC that it has on file an active security clearance for such an individual,  
specifying the investigative basis and level of such clearance.

10. Section 11.15(b) is amended and renumbered to read as follows:

§ 11.15(b) Applications for special nuclear material access authorization  
for individuals other than those qualifying under the provisions of 11.15(a)(2)  
above, shall be made on forms supplied by the Commission including:

(1) Personnel Security Questionnaire (PSQ) (NRC Form 1,  
Parts I and II) [completed-by-the-individual];

(2) National Agency Check-Data for Nonsensitive or Noncritical-Position (SF-85A)-for R cases only; (This form must be typed); ✓

(3) Two completed standard fingerprint cards (FD-258) [~~with the individual's fingerprints-(fingerprints may be taken by a local police authority);~~];

(4) Security ~~A~~cknowledgement [~~form~~] (NRC Form 176); ✓

(5) Authority to Release Information (NRC Form 259);

(6) [~~Other~~] Related forms where specified in accompanying instructions (NRC-254); and

(7) A statement by the employer, prospective employer, or contractor identifying the job to be assigned to or assumed by the individual and the level of authorization needed, justified by appropriate reference to the licensee's security plan.

11. Section 11.15(c) is renumbered 11.15(c)(1) and amended to read as follows:

Except as provided in § 11.15(c)(2) below, NRC-U ~~and R~~ special nuclear ✓  
material access authorization shall expire five years following the date of  
issue. If continued NRC-U ~~and R~~ special nuclear material access authorization ✓

is required, an application for renewal shall be submitted at least 120 days prior to expiration date. Failure to make a timely application will result in expiration of special nuclear material access authorization. Special nuclear material access authorization for which a timely application for renewal has been made may be continued beyond the expiration date pending final action on the application. An application for renewal will ~~[consist of]~~ include:

A. A statement by the licensee that at the time of application for renewal the individual's assigned or assumed job requires an NRC-U special nuclear material access authorization, justified by appropriate reference to the licensee's security plan.

B. Personnel Security Questionnaire (NRC Form 1, Parts I and II), ~~[completed by the applicant]~~.

C. National Agency Check-Data for Nonsensitive or Noncritical-sensitive position (SF-85A), (This form must be typed). ✓

D. Two completed standard fingerprint cards ~~[with the individual's fingerprints]~~ (FD Form 258).

E. Authority to release information (NRC Form 259).

F. Other related forms where specified in accompanying NRC instructions (NRC Form 254).



~~An application for renewal of NRC-R special nuclear material access authorization need only include a statement by the licensee that at the time of application for renewal the individual's assigned or assumed job requires an NRC-R special nuclear material access authorization, justified by appropriate reference to the licensee's security plan.~~

*DELETE*

12. A new Section 11.15(c)(2) is added to read as follows:

An exception to the NRC-U special nuclear material access authorization expiration date and the time for submission of NRC U special nuclear material access authorization renewal applications, is provided for those individuals who have a current and active DOE Q access authorization and who are subject to DOE Selective Reinvestigation Program requirements. For these individuals, the time for submission of NRC U special nuclear material access authorization renewal applications may coincide with the time for submission of Part I of a DOE Personnel Security Questionnaire to DOE pursuant to DOE Selective Reinvestigation Program requirements. The licensee may submit to NRC, concurrent with its submission to DOE, an originally signed and dated copy of Part I of the individual's DOE Personnel Security Questionnaire together with Part II of an NRC Personnel Security Questionnaire and the forms and information required by paragraphs (c)(1)(A), (C), (D), (E), and (F) above, as the supporting documentation for an NRC-U special nuclear material access authorization renewal application. Any NRC U special nuclear material access authorization issued in response to a renewal application submitted pursuant to this paragraph (c)(2) shall not expire until the date set by DOE for the next reinvestigation of the individual pursuant to DOE's Selective Reinvestigation

Program (generally every five years). At that time (and at the time of each subsequent reinvestigation of the individual), the licensee may again submit, concurrent with its submission to DOE, an originally signed and dated copy of Part I of the individual's DOE Personnel Security Questionnaire together with Part II of an NRC Personnel Security Questionnaire and the forms and information required by paragraph (c)(1)(A), (C), (D), (E), and (F) above, as the supporting documentation for the renewal application. Failure to file such a renewal application concurrent with the time for submission of an individual's Part I of a DOE Personnel Security Questionnaire to DOE pursuant to DOE Selective Reinvestigation Program requirements will result in the expiration of the individual's NRC special nuclear material access authorization. NRC-U special nuclear material access authorizations for which a timely application for renewal has been made may be continued beyond the expiration date<sup>e</sup> pending final action on the application.

⊕ - SEE "INSET" FOR NEW SECTION (C) (3)

13. Section 11.15(e) is amended to read as follows:

Each application for special nuclear material access authorization, renewal or change in level must be accompanied by the licensee's remittance payable to the U.S. Nuclear Regulatory Commission according to the following schedule:



## ★ INSERT

§ 11.15

(C) (3)

Notwithstanding the above, in no instance shall the period of time for the initial and each subsequent NRC-U renewal application to NRC exceed seven years. Any individual who is subject to the DOE Selective Reinvestigation Program requirements but, for administrative or other reasons, does not submit reinvestigation forms to DOE within seven years of the previous submission, shall submit a renewal Application to NRC using the forms prescribed in paragraph (C)(1), above before the expiration of the seven year period. Failure to promptly request an NRC-U renewal for any individual within the seven year period shall result in termination of the individual's NRC-U access authorization.

(1) New-application, "U"	\$1,650
(2) New application, "R"	15
(3) Renewal, "U" or "R"	15
(4) Change-of-level "R" to "U" (full fee-charged-only-if-an-investigation-is-required)	1,650
(5) Convert-existing-NRC-or-DOE-"Q" or "Q(X)" to "U"	1,650
(6) Convert-existing-NRC-or-DOE-"L" or "L(X)" to "U"	1,650
(7) Convert-existing-NRC-or-DOE-"Q" or "Q(X)", "L" or "L(X)" to "R"	15

<sup>1</sup> Full-fee-charged-only-if-an-investigation-is-required, if, every last investigation is more than five years old or does not meet necessary investigative scope.

(1) <u>NRC U requiring full field investigation</u>	<u>\$1,580</u>
(2) <u>NRC U based on certification of comparable full field background investigation</u>	<u>0<sup>1</sup></u>
(3) <u>NRC <sup>U</sup> renewal</u>	<u>15<sup>1</sup></u>
(4) <u>NRC R</u>	<u>5<sup>1</sup></u>
(5) <u>NRC R based on certification of comparable investigation</u>	<u>0</u>

<sup>1</sup> If full field investigation is deemed necessary, a fee of \$1580 will be assessed.

<sup>2</sup> If National Agency Check investigation is deemed necessary, a fee of \$15.00 will be assessed; however, if a full field investigation is deemed to be necessary, a fee of \$1580 will be assessed.

Material access authorization fees will be published in ~~[December]~~ July 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]~~ no cost, since the Commission may accept the certification of access authorizations and investigative data ~~[(which is less than five years old)]~~ from other Federal Government agencies which grant personnel access authorization.

14. Section 11.15(f) is amended by replacing the existing paragraph to read as follows:

~~[Nuclear Regulatory Commission (NRC) or Department of Energy (DOE) "Q" or "L" access authorization granted to an NRC or DOE employee or a Department of Defense (DOD) "Top Secret" (based on a full field investigation) or "Secret" clearance granted to a DOD employee, will permit this employee, on official business, the same level of unescorted access to special nuclear material within material access areas, or within vital areas, or protected areas that an NRC "U" or "R" access authorization, respectively, would afford in accordance with § 11.11.]~~

*licensee or other person*

Any federal employee, ~~an~~ employee of a contractor of a Federal agency, ↓  
visiting an affected facility for the purpose of conducting official business  
and who possesses an active NRC or DOE Q access authorization or an equivalent  
federal security clearance granted by another Federal agency ("Top Secret")

✓

based on a comparable full field background investigation may be permitted the  
same level of unescorted access that an NRC-U special nuclear material access  
authorization would afford in accordance with 11.11. Any federal employee, ✓  
<sup>licensee or other person</sup> employee of a contractor of a Federal agency, ✓  
visiting an affected facility for  
the purpose of conducting official business and who possesses an active NRC or  
DOE L access authorization or an equivalent security clearance granted by  
another Federal agency ("Secret") based on a background investigation or  
national agency check may be permitted the same level of unescorted access that  
an NRC R special nuclear material access authorization would afford in  
accordance with 11.11.

Dated at Bethesda, Maryland, this \_\_\_\_ day of \_\_\_\_\_, 1985.

For the Nuclear Regulatory Commission.

\_\_\_\_\_  
William J. Dircks,  
Executive Director for Operations.

-PROPOSED NEW SECTIONS-

11.2 Notification of the grant of access authorization.

The determination to grant access authorization will be furnished by SEC in writing to the licensee which initiated the request. This information may also be furnished to other representatives of the Commission, to licensees, contractors, or other Federal agencies. Notification of access authorization will not be given in writing to the individual himself except:

(a) In those cases in which the determination was made in accordance with the procedures set forth in 10 CFR Part 10, or

(b) When the individual also is the official to whom written notifications are forwarded.

11.2 Cancellation of requests for material access authorization.

When a request for an individual's access authorization is withdrawn or cancelled, the NRC Division of Security shall be notified immediately by telephone so that the full field investigation or National Agency Check may be discontinued. The caller shall supply the full name and date of birth of the individual, the date of request, and the type of access authorization originally requested ("U" or "R"). Such telephone notice shall be promptly confirmed in writing.

11.2 Termination of material access authorizations.

(a) Access authorizations will be terminated when:

(1) Access authorization is no longer required, or

(2) An individual is separated from the employment or the activity for which he obtained an access authorization for a period of 90 days or more, or

(3) An individual, pursuant to 10 CFR Part 10, <sup>as applied in accordance with 10 CFR 11.21</sup> is no longer eligible  
Δ  
for access authorization.

(b) A representative of the licensee or other organization which employs the individual whose access authorization will be terminated shall immediately notify the NRC Division of Security when the circumstances noted in paragraph (a)(1) or (a)(2) of this section exist; inform the individual that his access authorization is being terminated, and the reason; and that he will be considered for reinstatement of access authorization if he resumes work requiring it.

## REGULATORY ANALYSIS

### Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material (10 CFR Part 11)

#### Statement of Problem

Paragraph 10 CFR 11.11 requires each licensee who uses, processes, stores, transports or delivers to a carrier for transport, formula quantities of special nuclear material (as defined in 10 CFR Part 73) to identify all jobs under his control in which an individual could steal or divert special nuclear material, or commit sabotage which could endanger the public by exposure to radiation. This paragraph further requires that persons who occupy the identified job positions be granted the appropriate level of NRC special nuclear material access authorization for initial or continued employment in such positions ("NRC-U" authorization for persons whose jobs permit them to have direct access to or control over the special nuclear material; and "NRC-R" authorization for those who do not have direct access to or control over the special nuclear material, but do have a requirement for unescorted access to protected areas wherein such material is located).

Paragraph 10 CFR 11.15 requires the initial and renewal applications for NRC special nuclear material access authorization for the affected licensee employees to be submitted on forms supplied by the Commission. This paragraph authorizes affected licensees to grant unescorted access to special nuclear material or to protected areas during official business visits to employees of the Commission, the Department of Energy (DOE) and the Department



of Defense (DOD), when such employees have personnel access authorizations or clearances which are based on investigations which are equivalent to the investigations required for licensee employees. However, there are no provisions for formally granting NRC special nuclear material access authorizations to persons such as licensee employees who have similar personnel access authorizations or clearances and are in, or applying for, positions at an NRC licensed facility which require the same access on a continuing basis.

At the time that 10 CFR Part 11 was promulgated (1980), more than a dozen nuclear fuel facilities were affected. The rationale for requiring all applications to be made on NRC forms was to provide a uniform system which was tailored to the needs of most licensees. A central investigative data file would have been established at the Commission Headquarters for all special nuclear material access authorizations granted by the Commission. Since that time the number of licensed fuel facilities having formula quantities of special nuclear material has been reduced significantly. All of the remaining facilities have requirements, to varying degrees, for NRC and/or DOE personnel access authorizations. The levels of these authorizations are the same ("Q" and "L"); and they are based on the same type of investigations (full field Background Investigation and National Agency Check, respectively).

Accordingly, investigative data on file with either of these two agencies would be acceptable for granting the comparable level of access to special nuclear material (i.e., "Q" to "NRC-U" and "L" to "NRC-R"). The granting of access to special nuclear material to employees of other Federal agencies (e.g., the Department of Defense) which have comparable current investigative data on file



would be consistent with this policy. Also, forms issued by other Federal agencies which are of similar design and contain all of the information required on the NRC application forms would be acceptable substitutes for the NRC forms.

*Consideration  
of forms  
submitted  
by DOE and  
other  
Federal  
agencies*

The changed circumstances in which the number of individuals needing NRC special nuclear material access authorizations are also already subject to DOE clearance requirements make it more reasonable to utilize as much of the existing DOE program as possible without diminishment of the NRC program. Accordingly, it is now appropriate to modify the regulations to allow:

- (a) Conversion of NRC and DOE personnel access authorizations to equivalent levels of NRC special nuclear material access authorizations (i.e., "Q" to "NRC-U" and "L" to "NRC-R", respectively), when the investigations on which such personnel access authorizations were based are equivalent to those required for the level of access to special nuclear material for which applications are being made.
- (b) Acceptance of forms accompanying the application for SNM access authorization which are issued by other Federal agencies, when such forms contain all of the information required on the prescribed NRC forms.
- (c) Acceptance by the Commission, of certification from other Federal agencies, of investigative data when personnel cleared by such agencies are making application for NRC special nuclear material

*only DOE  
in Rule for  
renewals.*

access authorization and the investigative data on file are equivalent to that required for the level of special nuclear material access authorization for which applications are being made.

- (d) Incorporation of minor administrative changes which have occurred since publication of the original rule in 1980 (e.g., date for annual revision of fees schedule has been changed from December to July; and changing the fee for a full field investigation from \$1550.00 to \$1580.00).

An amendment to effect the foregoing changes to the rule would achieve all of the objectives of the Commission special nuclear material access authorization program; and at the same time, not require licensees to duplicate efforts and expenditures for equivalent investigations and application data which have already been accomplished to satisfy requirements of other Federal agencies.

The significance of taking no action to resolve this problem would be to require unnecessary and unreasonable expenditures and personnel time loss on the part of licensees and their employees to acquire information which is already available from other Federal sources.

#### Objective

The objective of this rulemaking action is to provide an effective program for the Commission to grant special nuclear material access authorizations

without imposing unnecessary administrative burdens on licensees. This can be achieved by effecting the foregoing changes to the existing rule, which will allow the Commission to "grandfather" certain cleared licensee employees into the program and to accept application forms and investigative data provided by other Federal agencies. This will allow adoption of the DOE Selective Reinvestigation Program for renewals of those individuals possessing appropriate DOE clearances.

#### Alternatives

Two alternatives were considered, in detail:

- 1) Retain the current rule unchanged.
- 2) Amend the current rule to achieve the stated objective.

#### Consequences

The costs and/or benefits of this rulemaking action are summarized as follows:

- 1) For each applicant for an NRC-"U" special nuclear material access authorization who has had a full field background investigation conducted to satisfy personnel clearance requirements of another Federal agency, the amended rule will allow the employing licensee to submit an application without fee, as opposed to the \$1580.00 fee, which is currently required for the full field investigation. For some licensees this may be as many as one third of the total number

of employees who require initial NRC special nuclear material access authorization. Additionally, considerably less processing time is expended by the NRC reviewing officials, as well as the applicants.

- 2) There will be no additional cost or adverse impact on NRC operations other than the normal staff time expended and the cost of publishing the amendment notices in the Federal Register. The staff time required for drafting, coordinating and preparing the notice for final publication has, for the most part, already been expended. Only a small amount of future effort, on the part of the staff, is anticipated. The cost per page for publication in the Federal Register is approximately \$400. This notice should take less space than two full pages. Thus, the cost for publishing both a final rule notice will be less than \$800.

### Conclusion

Alternative 2 ("Amend the current rule to achieve the stated objective") should be implemented. The monetary cost to the Commission is minimal, as compared to the adverse impact of imposing on fuel facility licensees unnecessary and duplicative requirements of the existing rule (i.e., less than the cost of one full field background investigation to amend the rule).

APPROVED FOR PUBLICATION

In a final rule published March 19, 1982 (47 FR 11816), the Commission delegated to the EDO (10 CFR 1.40(c) and (d) the authority to develop and promulgate rules as defined in the APA (5 U.S.C. 551(4) subject to the limitations in NRC Manual Chapter 0103, Organization and Functions, Office of the Executive Director for Operations, paragraphs 0213, 038, 039, and 0310.

The enclosed rule entitled, "Revised Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material" amends 10 CFR Part 11 to allow utilization of current active Federal clearances based upon equivalent investigations for the purpose of granting the NRC special nuclear material access authorizations.

The proposed rule does not constitute a significant question of policy, nor does it amend regulations contained in 10 CFR Parts 0, 2, 7, 8, 9, Subpart C or 110. I therefore find that this rule is within the scope of my rulemaking authority and am proceeding to issue it.

\_\_\_\_\_  
Date

\_\_\_\_\_  
William J. Dircks  
Executive Director for Operations

ENCLOSURE D

NUCLEAR REGULATORY COMMISSION

10 CFR PART 11

REVISED CRITERIA AND PROCEDURES FOR DETERMINING  
ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

AGENCY: Nuclear Regulatory Commission

ACTION: Final Rule

SUMMARY: The Nuclear Regulatory Commission is changing the requirements for applications for initial access authorizations and for their renewal by allowing utilization of information on file with the government on individuals possessing current active clearances based upon equivalent investigations. The changes would eliminate unnecessary duplication of administrative costs by licensees for individuals already possessing comparable clearances. They would also eliminate certain NRC administrative costs.

DATE: The revised procedures are to become effective upon publication.  
Affected licensees will be provided copies of the Federal Register notice.

FOR FURTHER INFORMATION CONTACT: Russel R. Rentschler, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: (301) 427-4761.



SUPPLEMENTARY INFORMATION:

BACKGROUND

On March 17, 1977 (42 FR 14880), the NRC published proposed amendments to its regulations which would establish an access authorization program for individuals who have unescorted access to or control over special nuclear material. Written comments were invited and received. On December 28, 1977 (42 FR 64703), the Commission issued a notice of public hearings on the proposed regulations and subsequently established a Hearing Board to gather additional testimony. A final rule, based upon recommendations of the Hearing Board regarding only fuel cycle facilities and transportation, was published in 10 CFR Parts 11, 50, and 70 on November 21, 1980 (45 FR 76968).

One of the reasons for undertaking the NRC access authorization program for individuals having access to or control over special nuclear material was to maintain comparability with a similar program of clearances at Department of Energy (DOE) facilities and at mixed DOE/NRC facilities. Subsequently, the population of individuals affected has become one in which DOE/NRC mixed facility employees are by far the dominant segment. Accordingly, the incentive to establish and maintain a comparable and independent NRC program has been replaced by an incentive to utilize as much of the existing DOE system as possible. The revisions to 10 CFR Part 11 accomplish this end. ✓

### CONVERSION OF CLEARANCES

The NRC accepts personnel access clearances from other Federal agencies if the investigations upon which the clearances are based are equivalent to those required for the level of NRC special nuclear material access authorization. This avoids duplication of investigative activities for individuals who have undergone a comparable investigation.

### ACCEPTANCE OF NON-NRC APPLICATION FORMS

Use of applications for access authorizations on forms which are issued by other Federal agencies, if all relevant information is provided, allows the granting of NRC material access authorizations without duplicative administrative costs. It allows incorporation of existing documentation.

### USE OF DEPARTMENT OF ENERGY

#### REINVESTIGATION PROGRAM

The DOE reinvestigation program for individuals holding NRC material access authorizations allows renewals under the two programs to be handled under a single system of administration. It avoids having both the licensee and the NRC duplicate administrative activities already performed by the licensee and DOE.



#### MINOR ADMINISTRATIVE CHANGES

A number of minor changes of an administrative nature are included in the rule revision. The schedule date for revision of fees has been changed from December to July; the fee for a full field investigation has been changed from \$1550.00 to \$1580.00. Conforming changes have also been made, where appropriate, to incorporate the major revisions described earlier.

#### NO ENVIRONMENTAL IMPACT

The rule revision has no impact on the environment. It is wholly concerned with personnel control and is administrative in nature. Under the provisions of 10 CFR 51.5 an environmental impact statement or negative declaration and environmental appraisal need not be prepared.

#### PAPERWORK REDUCTION ACT STATEMENT

The changes to the rule amend information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The rule prior to these amendments was submitted to the Office of Management and Budget and was reviewed and approved for paperwork requirements. The amendments to the rule eliminate reporting requirements which duplicate those from other Federal agencies.