

### § 10.30

### 10 CFR Ch. I (1-1-01 Edition)

this part, the Hearing Examiner is of the opinion that granting or continuing access authorization and/or employment clearance to the individual will not endanger the common defense and security and will be clearly consistent with the national interest, a favorable recommendation shall be made; otherwise, an adverse recommendation shall be made.

(d) The Hearing Examiner shall submit his or her findings and recommendation in a signed report together with the record of the case to the Director, Office Administration, with the least practical delay.

(e) The Hearing Examiner shall not consider the possible impact of the loss of the individual's services upon the NRC program.

[47 FR 38676, Sept. 2, 1982, as amended at 52 FR 31609, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989]

#### § 10.30 New evidence.

After the close of the hearing, in the event the individual discovers new evidence not previously available or known to him or her, the individual may petition the Hearing Examiner if the Hearing Examiner's recommendation has not yet been issued, or thereafter, the Director, Office of Administration, to reopen the record to receive that evidence. If the Hearing Examiner or the Director, respectively, deem it material and appropriate, the record may be reopened to accept the evidence either by stipulation, with the agreement of the Hearing Counsel, or in a reconvened hearing.

[47 FR 38676, Sept. 2, 1982, as amended at 52 FR 31610, Aug. 21, 1987; 54 FR 53316, Dec. 28, 1989]

#### § 10.31 Actions on the recommendations.

(a) Upon receipt of the findings and recommendation from the Hearing Examiner, and the record, the Director, Office of Administration, shall forthwith transmit it to the Deputy Executive Director for Management Services who has the discretion to return the record to the Director, Office of Administration, for further proceedings by the Hearing Examiner with respect to specific matters designated by the

Deputy Executive Director for Management Services.

(b)(1) In the event of a recommendation by the Hearing Examiner that an individual's access authorization and/or employment clearance be denied or revoked, the Deputy Executive Director for Management Services shall immediately notify the individual in writing of the Hearing Examiner's findings with respect to each allegation contained in the notification letter, and that the individual has a right to request a review of his or her case by the NRC Personnel Security Review Panel and of the right to submit a brief in support of his or her contentions. The request for a review must be submitted to the Deputy Executive Director for Management Services within five days after the receipt of the notice. The brief will be forwarded to the Deputy Executive Director for Management Services, for transmission to the NRC Personnel Security Review Panel not later than 10 days after receipt of the notice.

(2) In the event the individual fails to request a review by the NRC Personnel Security Review Panel of an adverse recommendation within the prescribed time, the Deputy Executive Director for Management Services may at his or her discretion request a review of the record of the case by the NRC Personnel Security Review Panel. The request will set forth those matters at issue in the hearing on which the Deputy Executive Director for Management Services desires a review by the NRC Personnel Security Review Panel.

(c) Where the Hearing Examiner has made a recommendation favorable to the individual, the Deputy Executive Director for Management Services may at his or her discretion request a review of the record of the case by the NRC Personnel Security Review Panel. If this request is made, the Deputy Executive Director for Management Services shall immediately cause the individual to be notified of that fact and of those matters at issue in the hearing on which the Deputy Executive Director for Management Services desires a review by the NRC Personnel Security Review Panel. The Deputy Executive Director for Management Services will further inform the individual that