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**United States Department of Energy  
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing )  
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Filing Date: May 16, 2025 )  
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Case No.: PSH-25-0122

Issued: October 20, 2025

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**Administrative Judge Decision**

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Andrew Dam, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (the Individual) to hold access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, "Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position."<sup>1</sup> As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be restored.

**I. BACKGROUND**

The Individual holds access authorization in connection with his employment with a DOE contractor. Exhibit (Ex.) 1 at 6.<sup>2</sup> In December 2024, the Individual submitted a Questionnaire for National Security Positions (QNSP). Ex. 6 at 22–64. In the December 2024 QNSP, the Individual indicated that he had not filed his federal and state tax returns for tax years 2022 and 2023. *Id.* at 57. The LSO issued to the Individual a Letter of Interrogatory (LOI), to which he submitted a response in January 2025 (January 2025 LOI Response). *See* Ex. 5 at 18–20. In his January 2025 LOI Response, the Individual reconfirmed he had not filed his tax returns for tax years 2022 and 2023. *Id.* at 18–19.

Due to the unresolved security concerns associated with his failure to file his tax returns, the LSO suspended the Individual's clearance and, in April 2025, informed the Individual in a Notification Letter that it possessed reliable information creating substantial doubt regarding his eligibility to

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<sup>1</sup> The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as "access authorization" or "security clearance."

<sup>2</sup> References to the Local Security Office's (LSO) exhibits are to the exhibit number and the Bates number located in the top right corner of each exhibit page.

hold a security clearance. Ex. 1 at 6–7. In an attachment to the letter entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information raised security concerns under Guideline F of the Adjudicative Guidelines. *Id.* at 5.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2 at 10–11. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. The LSO submitted seven numbered exhibits (Ex. 1–7) into the record. The Individual submitted eight exhibits in eight separate PDF files (Ex. A–H).<sup>3</sup> The Individual testified on his own behalf. *See* Transcript of Hearing, OHA Case No. PSH-25-0122 (hereinafter cited as “Tr.”) at 3. The LSO called no witnesses. *Id.* at 6.

## II. NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline F (Financial Considerations) of the Adjudicative Guidelines as the basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 1 at 5. “Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified . . . information.” Adjudicative Guidelines at ¶ 18. Among the conditions set forth in this guideline that could raise a disqualifying security concern is the “failure to file . . . annual [f]ederal, state, or local income tax returns or failure to pay annual [f]ederal, state, or local income tax as required[.]” *Id.* at ¶ 19(f). The SSC cited the Individual’s failure to file 2022 and 2023 federal and state tax returns. Ex. 1 at 5. The cited information justifies the LSO’s invocation of Guideline F.

## III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person’s access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The Individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The Individual is afforded a full opportunity to present evidence supporting his eligibility for access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h).

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<sup>3</sup> References to the Individual’s exhibits are to the exhibit letter and the PDF page number.

Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

#### IV. FINDINGS OF FACT

##### *a. Individual's Background and Failure to File Timely Tax Returns for Tax Years 2017, 2019, 2020, and 2021*

The Individual consistently held employment since turning 18 and consistently filed annual tax returns when he started working. Tr. at 45; Ex. 6 at 26 (QNSP indicating that the Individual's birth year was 1989 and thus indicating he would have become an adult in 2007). The Individual has held a security clearance since 2008. Ex. 6 at 54–55. The documentary record includes QNSPs previously submitted in August 2013 and October 2018. Ex. 7 at 80–129, 177–216. The August 2013 and October 2018 QNSPs both contain the following question: “[i]n the past seven (7) years have you failed to file or pay [f]ederal, state or other taxes when required by law or ordinance?”—to which the Individual responded, “No[.]” Ex. 7 at 123, 210 (formatting in original). Contemporaneous with this period, the Individual married his wife in 2014, and his wife started a business in 2016. Tr. at 24; Ex. 6 at 41 (QNSP showing marriage date). The Individual testified that, prior to tax year 2017, he understood that he was required to file annual tax returns. Tr. at 47.

The Individual testified that for tax year 2017 he stopped filing timely annual returns because another employee with the DOE contractor informed him, “hey, if you’re due a refund, you have up to three years [to file].” *Id.* at 45–46, 54.<sup>4</sup> The Individual believed the employee was a “CPA” or a Certified Public Accountant. *Id.* at 47–48. However, the Individual could not recall if the coworker ever referred to himself as a CPA. *Id.* at 48. In 2019, the Individual filed his tax returns for tax years 2017 and 2018. *Id.* at 54; Ex. 5 at 20. The Individual provided no specificity regarding the date on which he filed his 2018 tax return in 2019. Thus, he may have filed the 2018 tax return timely. The Individual failed to file his 2019 and 2020 tax returns timely. Ex. 5 at 20. The Individual late filed them in 2022. *Id.*

The Individual failed to file his 2021 tax returns timely. *Id.* In 2024, the Individual approached another purported CPA for assistance with filing his 2021 tax return. Tr. at 48. According to the Individual, some friends recommended the person as “a really good business CPA.” *Id.* At the hearing, the Individual testified that he “just assumed” that the person who he consulted about his 2021 tax returns was a CPA. *Id.* at 49. According to the Individual, this “CPA” gave him the same advice as the coworker—that he only had to file tax returns within three years when due a refund. *Id.* at 45–46, 49. In 2024, the Individual, through the purported CPA, filed his 2021 tax returns. *Id.* at 49.

##### *b. 2024 QNSP; January 2025 LOI Response; and Failure to File Timely Tax Returns for Tax Years 2022, 2023, and 2024*

In December 2024, the Individual submitted a QNSP, stating that he had not filed his 2022 and 2023 tax returns for the following reasons:

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<sup>4</sup> During the hearing, the Individual admitted that, when completing the August 2018 QNSP, he should have reported that he had not filed his 2017 tax return. Tr. at 55–56.

I've usually file[d] my taxes every 2 years since I always get a refund. I have my employers withhold the maximum amount so that I can get a large refund when I file.

....

Like mentioned above, I have employers withhold the maximum[,] so I always get large refunds when I file. I owe \$0 in [f]ederal and state taxes. They owe me a refund[,] but I have not filed.

Ex. 6 at 57–58.

In his January 2025 LOI Response, he similarly provided the following:

I have consistently received . . . refund[s] when filing my personal income tax because I have my employers withhold the maximum amount possible. Based on guidance from my CPA, I understand that I have up to three years to file my personal income tax for a refund. For the past eight years, I've filed my taxes in bulk when I require the funds from my refunds.

....

I apologize and was unaware that my clearance could be in jeopardy for not filing taxes for a refund. I was under the impression that so long as I file for my refund within 3 years, I was OK. I want to state that I do not owe federal or state tax[es] for 2022 or 2023, because I always purposely overpay throughout each year to ensure I get a refund when I file my taxes. To back my claim, I can provide information on my filings schedule going back 8 years. I'm willing to file 2022 & 2023 Federal and State Income Tax ASAP to provide proof that I don't owe taxes and will get a refund.

Ex. 5 at 18–20.

The Individual submitted, as documentary evidence, federal tax account transcripts evincing that he and his wife jointly filed their 2022 and 2023 tax returns on April 14, 2025, and May 26, 2025, respectively. Ex. A at 1; Ex. B at 1. He also submitted a screenshot from the state tax authority's website reflecting that his state tax returns for tax years 2022 and 2023 were filed on March 18, 2025, and April 22, 2025, respectively. Ex. D at 1.

The Individual likely late-filed his 2024 federal and state tax returns on April 22, 2025. Ex. H at 1 (email from the purported "CPA" to the Individual, dated April 17, 2025, requesting that the Individual upload documentation for his tax filings). The Individual believes he had not requested an extension to late file for these returns, operating under the impression that he had not late filed

per the “CPA’s” advice. Tr. at 31 (“I’m only required to file an extension . . . , per the CPA, if I am going to owe the government money.”).<sup>5</sup>

***c. The Letter from the Purported CPA and the Individual’s Related Testimony***

The Individual submitted, as documentary evidence, a letter from his “CPA” dated September 2025. Ex. G. Notably, the author of the letter makes no reference to himself as a “CPA”—but only as (1) an “EA” or enrolled agent and (2) a “[l]icensed [t]ax [p]ractioner.” *Id.* at 1; *see also* Ex. H at 1 (email from the person also representing himself as a “Tax Accountant”); Tr. at 49 (the Individual’s testimony that he was “[p]retty sure [the person was] a CPA” but acknowledging that “it’s not in his letterhead or his title” on Exhibit G). It is unclear what license this professional purports to have. Throughout the hearing, the Individual referred to the author of Exhibit G as a “CPA” despite the lack of support in the record confirming that he had this specific certification. *See, e.g.*, Tr. at 49. Accordingly, I, hereinafter, refer to the person who authored Exhibit G as simply a “Tax Preparer.”<sup>6</sup>

In the letter, the Tax Preparer states the following:

Under Internal Revenue Code (IRC) § 6012(a), a taxpayer is required to file an income tax return only if their gross income meets or exceeds the applicable filing threshold. In situations where a taxpayer has sufficient federal income tax withholdings or refundable credits to cover their liability, they may not be legally required to file a timely return.

However, pursuant to IRC § 6511(a), any claim for a federal income tax refund must generally be filed within three years from the original due date of the return (without extensions). If a return is not filed within that three-year period, the refund may be forfeited, regardless of the taxpayer’s withholding status.

In this case, [the Individual] technically had sufficient withholdings and therefore was not strictly required to file on time; he nevertheless filed on time in order to preserve his right to a refund. This ensured compliance with federal law and allowed him to receive any refunds due.

Ex. G at 1.

This letter misstates and conflates several requirements and concepts. First, generally, by the text of 26 U.S.C. § 6012, an individual making over a certain gross income threshold—a value that is

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<sup>5</sup> The documentary evidence provided demonstrates that the Individual has been owed a tax refund in each of the last three tax years. Ex. A at 1 (2022 IRS Account transcript reflecting a refund of \$46,810); Ex. B at 1 (2023 IRS Account transcript reflecting a refund of \$28,034); Ex. C at 1 (2024 IRS Account transcript reflecting a refund of \$8,735); Ex. D at 1 (screenshot from state tax authority’s website reflecting refunds issued for \$3,909; \$3,223; and \$1,474 in tax years 2022, 2023, and 2024, respectively).

<sup>6</sup> The Individual also provided testimony evincing he relied on the Tax Preparer’s interpretation of the tax code. *See* Tr. at 32. However, he acknowledged that the Tax Preparer was not a lawyer. *Id.* at 32–33. As I explain further later in this Decision, the Tax Preparer provided an unsupported interpretation of the statutes cited in Exhibit G.

often not high—must file an annual tax return. This is a legal obligation entirely related to the amount of one’s *gross income* and entirely unrelated to the *withholdings* in a taxpayer’s regular paychecks. *See generally* 26 U.S.C. § 6012 (lacking any mention of “withholdings”). The withholdings in one’s paychecks to satisfy tax obligations are distinct from one’s gross income. Furthermore—independent of the legal obligation to file annual tax returns by their due date—a taxpayer generally cannot claim a refund of their tax overpayments from their withholdings when they file their claim for the refund more than three years outside the filing deadline. 26 U.S.C. § 6511. That one has three years to claim their refund from tax overpayments from withholdings does not eliminate the original filing deadline for tax returns. Accordingly, that the Individual made, in the Tax Preparer’s words, “sufficient withholdings” has no bearing on the Individual’s legal requirement to file tax returns on time every year.

This misinformation and misunderstanding appeared in various documentary evidence provided by the Individual. *See supra* Section II(b). For example, the Individual repeatedly made statements indicating that he sincerely believed that his obligation to file annual tax returns only stemmed from his status as a clearance holder: “I misunderstood my obligations *as a clearance holder* regarding the requirements on filing tax[ ] [returns] . . . I was under the impression that so long as I was adhering to [federal] and [state] filing guidelines, I was in compliance . . .” Ex. 2 at 11 (Individual’s request for a hearing dated April 27, 2025) (emphasis added).

This misunderstanding—specifically, the belief that he had no legal obligation to file his tax returns annually and was only required to do so as a clearance holder—persisted up until the day of the hearing, as evinced by the following exchange:

Q. Okay. But in 2025, so this year you were on notice that you had to file your [2024] tax[ ] [returns] on time?

A. 2025, that is correct.

Q. And you filed [ ] your tax[ ] [returns] for 2024 . . . on April 22[, 2025,] which is late?

A. *I guess late for you guys* [the DOE], yes, but for the feds [IRS], I got a refund in 2024.

Tr. at 32 (emphasis added).

By the end of the hearing, it appeared that the Individual’s understanding as to his legal obligation to file annual tax returns had shifted. For example, when asked to explain how the federal government is supposed to know what taxes are owed on income made through self-employment without the filing of a tax return—the Individual answered, “I guess that’s what I learned through this process . . . the [ ] government doesn’t actually have any data until I submit my information.” *Id.* at 58. The Individual then acknowledged that his “wife was technically self-employed” and that he was “putting her in a bad situation because the government didn’t know whether or not she owed [taxes] or didn’t owe until [he] actually filed.” *Id.* at 58–59.

For further context, the Individual’s wife started her own part-time business in 2016 and left her day job in 2022 to pursue full-time self-employment. *Id.* at 24. The Individual testified that, when he stopped filing annual returns in tax year 2017 and started late filing his returns, his wife “was

completely against” this approach. *Id.* at 50–51. In his own words, “[s]he used to work at [the Department of] Tax and Revenue for [the state]” and told him, “I’ve never heard of anybody doing their taxes this late[ ], after the deadline.” *Id.* at 50. In the first few tax years that the Individual failed to file tax returns, the Individual stated his wife would remind him of their tax obligations either monthly or quarterly. *Id.* at 51–52. The frequency of her complaints at some point lessened but then again increased to “once a month in 2022 and 2023” since she wanted to understand if “she broke even for the business.” *Id.* The Individual expressed regret that he had not listened to his wife. *Id.*

At the hearing, he expressed that he intended to meet his tax filing obligations in the future by submitting all his documentation to the same Tax Preparer and to have him file prior to April 15 every year. *Id.* at 39–41. The Individual indicated that if this Tax Preparer told him that he could not file by April 15 every year, then he would either go to a H&R Block or request an extension with the tax authorities. *Id.* at 41–42.

## V. ANALYSIS

Conditions that could mitigate a security concern under Guideline F include:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person’s control . . . and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source . . . ; and there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue;
- (f) the affluence resulted from a legal source of income;
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Adjudicative Guidelines at ¶ 20.

As a preliminary matter, the cited security concerns are for the Individual’s failure to file his federal and state tax returns from tax years 2022 and 2023. Accordingly, mitigating conditions (d),

(e), and (f) lack application since the cited security concerns do not involve overdue or unresolved debts or unexplained affluence.

Regarding mitigating condition (a), the behavior—taking no action to file his 2022 and 2023 federal and state tax returns—occurred starting in April 2023 and continued up until April 2025, only five months prior to the hearing. Furthermore, this behavior apparently occurred previously when, according to the Individual’s own admission, he late filed his 2017, 2019, 2020, and 2021 tax returns. I cannot find this behavior to have occurred “infrequently” or “so long ago.”

The circumstance under which this behavior occurred—essentially the Individual’s mistaken belief that tax returns did not need to be filed annually—resulted from the faulty advice he received from people that he also believed to be CPAs. This is a circumstance that is no longer present, as the Individual now understands his obligation to file tax returns on an annual basis. However, I must also consider the totality of the circumstances, including factors cited by 10 C.F.R. § 710.7(c), such as “[t]he nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct . . . ; the frequency and recency of the conduct; the age and maturity of the individual at the time of the conduct; [and] the absence or presence of . . . pertinent behavioral changes . . . .”

That the Individual started late filing tax returns well into his adulthood and after about a decade of filing annual returns timely reflects poorly on his judgment and reliability. The Individual may have received misinformation; however, his own prior understanding of his legal obligations with respect to his taxes and his wife’s protestations should have given the Individual pause upon receiving that advice and raise questions as to his judgment. This behavior continued for tax years 2017, 2019, 2020, 2021, 2022, 2023, and 2024—a frequency, duration, and recency that weighs against him. I also find that the Individual’s continued reference to these two individuals as “CPAs”—without any critical interrogation into their professional qualifications—reflective of poor judgment, insofar as the Individual failed to make an informed choice when taking their advice. Though the Individual indicated he would file tax returns annually as a security clearance holder, that the Individual, at the hearing, continued to misunderstand his legal obligation to file annual returns concerns me. This continued misunderstanding reflected an ongoing lack of judgment and reliability.

The Individual, by the end of the hearing, may have better understood that filing his tax returns was a legal obligation; however, the Individual testified that he would continue using his “CPA” despite the “CPA’s” contribution to the Individual’s misunderstanding and current security clearance issues. The circumstances here, in total, reflect poor judgment and reliability. While the Individual may file future tax returns on a timely basis—a supposition that I cannot verify given that even his 2024 tax return was late filed—I must also consider that in other contexts the Individual may again receive questionable advice from persons of questionable professional experience. Considering that the Individual disregarded his own experience filing tax returns annually, the advice of his wife who worked in a tax-related profession, and common knowledge regarding annual tax filing obligations, and instead followed dubious advice without critically evaluating the credentials and reputability of those offering it, I harbor doubts that the Individual will exercise sound judgment and follow rules and regulations if presented with a more convenient alternative. While the Individual’s failure to timely file tax returns presents only moderate security concerns, the process by which the Individual formed his beliefs and his adherence to those beliefs



up to the date of the hearing enhance the seriousness of the concerns because of the doubts they raise about his ability to carry out his responsibilities as a clearance holder more broadly. Given the outlined circumstances and my ongoing concerns, mitigating condition (a) does not apply.

Regarding mitigating condition (b), I cannot find that the conditions resulting in his financial problem were “largely beyond” his control. The financial problem, specifically the non-filing of his tax returns, resulted from his decision to follow the faulty advice he received from two “CPAs.” The Individual could have chosen not to follow the advice of these “CPAs.” I also cannot find the Individual “acted responsibly” for the same reasons I found that he exercised poor judgment, as stated in the prior paragraph. Mitigating condition (b) does not apply.

No evidence was put forth regarding financial counseling, and I cannot find that mitigating condition (c) applies.

Regarding mitigating condition (g), the Individual has submitted proof that he has filed the tax returns at issue with the appropriate tax authorities. I have corroborating documentation that the federal and state tax authorities have received the tax returns for tax years 2022 and 2023 and that the returns are considered filed. I also have supporting documentation that he overpaid for the tax years in question and does not owe tax liability.

Although the Individual has established the applicability of mitigating condition (g), the Adjudicative Guidelines provide that the mitigating conditions “could” mitigate security concerns under Guideline F, not that they necessarily do so in every case. *Id.* at ¶ 20 (formatting omitted). In applying the mitigating conditions, I have been guided by regulatory considerations set forth at 10 C.F.R. § 710.7(c), as outlined above in my discussion of mitigating condition (a). Again, the totality of the circumstances weigh against him. As stated above, the following leads me to believe there exist ongoing issues with the Individual’s judgment and reliability: (1) the Individual heeded the faulty advice of “CPAs” without any critical interrogation into the advice or the qualifications of the “CPAs” despite a decade of experience of filing tax returns timely and over his own wife’s protests; (2) the Individual repeatedly failed to file timely tax returns over an extended period for tax years 2017, 2019, 2020, 2021, 2022, 2023, and 2024; (3) the Individual, at the hearing, failed to appreciate that filing his tax returns was a legal obligation and not just an obligation derived from holding a clearance; (4) the Individual testified he would continue using the “CPA” who provided the faulty advice; and (5) the Individual, in other contexts, may heed unconventional advice conflicting with his legal and financial obligations, as well as rules and regulations. I find that the Individual’s filing of his delinquent tax returns is insufficient to resolve the security concerns asserted by the LSO under Guideline F.

As such, I find that the Individual has not resolved the security concerns raised under Guideline F.

## VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guideline F of the Adjudicative Guidelines. After considering all the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I

find that the Individual has not brought forth sufficient evidence to resolve the security concerns.

Accordingly, I have determined that the Individual's access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Andrew Dam  
Administrative Judge  
Office of Hearings and Appeals