*The original of this document contains information which is subject to withholding from disclosure under 5 U.S. C. § 552. Such material has been deleted from this copy and replaced with XXXXXX's.

United States Department of Energy
Office of Hearings and Appeals

In the Matter of: Personnel Security Hearing	)	
	)	
Filing Date: June 24, 2026	)	Case No.: PSH-26-0137
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	)	

Issued: November 20, 2026

Administrative Judge Decision

Erin C. Weinstock, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXX (the Individual) to hold an 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."[1] 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 be restored.

I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires him to hold an access authorization. Exhibit (Ex.) 1 at 7.[2] On October 14, 2025, the Individual was arrested and charged with Driving Under the Influence, less than 0.10 (DUI). Ex. 11 at 63. Subsequently, the Local Security Office (LSO) asked the Individual to complete a letter of interrogatory (LOI), which the Individual did on February 2, 2026. Ex. 8. Upon receipt of the responses to the LOI, the LSO asked the Individual to undergo a psychological evaluation in March 2026, by a DOE-consultant psychologist (DOE Psychologist). Ex. 12 at 68. The DOE Psychologist's evaluation resulted in a finding that the Individual habitually or binge consumed alcohol to the point of impaired judgment. *Id.* at 73.

[1] 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.

[2] References to the Local Security Office's (LSO) exhibits are to the exhibit number and the Bates number from the LSO's exhibit notebook.

The LSO subsequently issued the Individual a Notification Letter advising him that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 1 at 7–9. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline G of the Adjudicative Guidelines. *Id.* at 6.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I conducted an administrative hearing. The LSO submitted sixteen exhibits (Ex. 1–16). The Individual submitted sixteen exhibits (Ex. A–P). The Individual testified on his own behalf and presented the testimony of three other witnesses. Hearing Transcript, OHA Case No. PSH-26-0137 (Tr.). The LSO presented the testimony of the DOE Psychologist. *Id.*

II. THE SECURITY CONCERNS

Guideline G, under which the LSO raised security concerns, relates to security risks arising from excessive alcohol consumption. "Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual's reliability and trustworthiness." Adjudicative Guidelines at ¶ 21. Conditions that could raise a security concern include: "alcohol-related incidents away from work" and "habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder." *Id.* at ¶ 22(a), (c). In citing Guideline G, the LSO relied upon the Individual's October 2025 arrest for DUI. Ex. 1 at 5. The LSO also cited the DOE Psychologist's conclusion that the Individual habitually or binge consumed alcohol to the point of impaired judgment. *Id*. The LSO's allegations related to the Individual's arrest for DUI justify its invocation of Guideline G. However, as explained in detail below, I find that the basis for the allegation that the Individual habitually or binge consumed alcohol to the point of impaired judgment was inadequately founded to present a security concern. *See infra* § V.

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 Dep't 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).

An 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). An individual is afforded a

full opportunity to present evidence supporting their eligibility for an 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.* at § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. FINDINGS OF FACT

On October 14, 2025, the Individual was arrested and charged with DUI. Ex. 7 at 27. The Individual reported he consumed two beers that were eight percent alcohol by volume (ABV) over a period of two and a half hours and then decided to drive to the store to get food. Ex. 8 at 42; Tr. at 76. A police officer pulled over the Individual after observing him make a right turn with a defective turn signal and "driving on the fog line." Ex 11 at 64. When the officer approached the Individual, he noticed a strong smell of alcohol, and the Individual informed the police officer that he had consumed two beers. Ex. 8 at 42. The police officer asked the Individual to complete several field sobriety tests, which the Individual failed. Ex. 11 at 64. After failing the sobriety tests, the Individual was placed under arrest and transported to a detention center. *Id*. at 65. At the detention center, the Individual was asked to undergo a breath test and he refused. *Id*. The Individual was ultimately charged with DUI. Ex. 8 at 47. The Individual does not have a record of any other criminal charges within the last seven years. Tr. at 103; Ex. 14 at 131.

The Individual was evaluated by the DOE Psychologist on March 31, 2026. Ex. 12 at 68. At this evaluation, the Individual reported to the DOE Psychologist that he had consumed approximately six light beers over the previous two weeks. *Id.* at 70; *see also* Tr. at 80–81 (testifying that in the weeks leading up to the evaluation, he consumed "a couple beers a few afternoons when [he] did not have to work the next day"). He also reported that he "typically only drinks about once a month, when he is out cutting the grass or something . . . and that he only drinks two beers at one sitting." *Id.* Notably, in both the evaluation and at the hearing, the Individual maintained that, prior to the DUI, he had not consumed alcohol for several years, and it was only since the DUI that he had restarted a pattern of drinking. Tr. at 66–67; Ex. 12 at 70. On the day of the evaluation, the Individual admitted to having two beers that morning when he got off work, which he also restated during the hearing. Ex. 12 at 70; Tr. at 81. After consuming the beers, he went to sleep until approximately 2:00 P.M. as his evaluation with the DOE Psychologist was to take place at 3:00 P.M. that day. Tr. at 81. As part of his evaluation, the Individual underwent a Phosphatidyl Ethanol (PEth) test[3] on the same date. Ex. 12 at 72. The PEth test came back positive at a level of 127 ng/mL. *Id.* According to the psychiatrist who interpreted the Individual's PEth test, this PEth level was inconsistent with the Individual's reported alcohol consumption from the prior month and indicated that the Individual was either binge consuming alcohol or consuming alcohol on a more regular basis than he reported.[4] *Id.*

[3] "The PEth level reflects the average amount of alcohol consumed over the previous 28-30 days as red blood cells degrade and enzymatic action removes PEth. A PEth less than 20 ng/mL [] indicates 'Light or No Consumption,' consisting of using no alcohol or averaging less than 2 drinks/day several days/week for men. PEth greater than 20 ng/mL and less than 200 ng/mL indicates midrange excess alcohol consumption." Ex. 12 at 88.

[4] The psychiatrist's interpretation letter mistakenly indicated that the Individual had consumed a type of beer that had a higher ABV content than the type of beer that is noted in the DOE Psychologist's Report. *Compare* Ex. 12 at 70

After the Individual completed the evaluation, the DOE Psychologist issued a report (Report) in which she opined that the Individual habitually or binge consumed alcohol to the point of impaired judgment. *Id.* at 73. In reaching this opinion, the DOE Psychologist relied on the definition of binge drinking provided by the Substance Abuse and Mental Health Services Administration (SAMHSA) and the Centers for Disease Control (CDC) which define binge drinking for men as "consuming five or more standard drinks per occasion."[5] *Id*. at 75. The DOE Psychologist defined "'habitual' alcohol consumption. . . as [] approximately monthly intoxication." *Id*. When speaking to the DOE Psychologist, the Individual maintained that he does not drink to the point of intoxication, limits his alcohol use to beers when he does drink, and had an "average consumption of once a month (drinking only two beers)." *Id*. In the Report, the DOE Psychologist opined that the Individual is a habitual or binge drinker based on the inconsistency between the Individual's PEth result and his self-reported consumption. *Id*. at 73.

At the time of issuing her Report, the DOE Psychologist recommended that to demonstrate rehabilitation, the Individual should engage in ten weekly sessions with a specialist who is trained or certified in substance abuse treatment. *Id.* at 73–74. The DOE Psychologist also recommended that the Individual provide six months of negative PEth tests to show evidence that he could control his alcohol consumption. *Id.* at 74. However, the DOE Psychologist later clarified that, despite recommending six months of negative PEth tests, she did not recommend total sobriety in this case, and recommended the PEth tests as evidence that the Individual could "control his drinking" *Id*. at 74; Tr. at 116. At the hearing, the DOE Psychologist testified that, at the time of her Report, she had concerns about the Individual's judgment based on his underreporting of his alcohol consumption, his continued consumption of alcohol in spite of statements about it causing issues for him, his use of alcohol despite a medical condition exacerbated by it, and his consumption on the morning of the evaluation. Tr. at 117. The DOE Psychologist also explained that she did not diagnose the Individual with any alcohol-related conditions from the *Diagnostic and Statistical Manual of Mental Disorders* because while she was concerned about the Individual's judgment related to his alcohol use, she did not see any evidence of clinical impairment. *Id.* at 118.

During the hearing, the Individual testified that he had not consumed any alcohol since March 31, 2026. Tr. at 86. To support his report of abstinence, he provided two negative PEth tests dated June 1, 2026 and September 22, 2026. Ex. C; Ex. P. On April 21, 2026, the Individual successfully completed six months in his state's ignition interlock device program. Ex. B; Tr. at 71–72. That program required him to blow into a device to start his car and to blow into the device at randomly selected times while operating his car to ensure that he did not have any alcohol in his system. Tr. at 71–73. Any positive test would have resulted in the Individual's car being unable to start and a notification to the probation and parole office. *Id*. at 71. In April 2026, the Individual made a plea

with id. at 88–89. This error would not impact the psychiatrist's opinion that the Individual was consuming more alcohol than he reported, and, as such, I do not discuss it further.

[5] The Report also stated SAMHSA and the CDC defined binge drinking as consuming "more than two standard drinks per day." Ex. 12 at 75. The Report does not cite to a source for this definition, and it cannot be found on the website of either organization.

agreement to reduce the DUI charge to Reckless Driving,[6] and he paid $440 to resolve the Reckless Driving charge. Ex. 6 at 23–24.

In addition to the negative PEth results and successful completion of an ignition interlock device program, the Individual testified about his current relationship with alcohol, his support network for sobriety, and some of his tools for maintaining his sobriety. Tr. at 88–89, 91–96. Importantly, the Individual acknowledged his maladaptive relationship to alcohol in the past as well as the consequences his drinking has had on his life. *Id*. at 88–89. The Individual spoke about how the Report "was [] very eye-opening," regarding the consequences of his drinking, and it prompted him to reevaluate his relationship with alcohol and to seek out support in a sobriety journey. *Id*. The Individual testified that he had been unable to engage in formal counseling due to it being cost prohibitive. *Id*. at 91–92. Instead, the Individual sought out male mentors who had experienced similar issues with alcohol in the past, including a pastor who provided a character reference for the Individual. *Id*.; *see also* Ex. E (letter from pastor). The Individual asked these men to be his accountability partners in his sobriety, and he now speaks with these men, generally daily, as part of their ongoing sobriety support. Tr. at 92–93. In addition, these men have made themselves available to the Individual should he ever need additional support. *Id*. at 92–94. During the hearing, the Individual spoke about experiencing the urge to drink since March 31, 2026, and how he was able to avoid drinking by contacting these men who assisted him in overcoming these temptations. *See id*. at 94. One of these men introduced the Individual to a process called "move a muscle, change a thought" in which a person redirects a temptation or urge to break sobriety into another task in order to overcome the temptation. *Id*. at 94–95. In addition to his existing support network, as of the hearing the Individual had recently spoken with a person from a religious-based recovery group and stated that he intends to attend those meetings going forward. *Id*. at 96.

Following testimony from the Individual, as well as his other witnesses, the DOE Psychologist provided an updated prognosis for the Individual. *Id*. at 114. The DOE Psychologist testified that what she looks for in a person as proof of rehabilitation is accountability, ownership, and candor. *Id*. at 111. The DOE Psychologist stated that, in this case, the Individual is "doing exactly every single thing [she] want[s] someone to do who is trying to engage in sobriety and sobriety-supporting community and accountability." *Id*. at 113. Specifically, the DOE Psychologist testified that she considers the support network of men that the Individual has joined to be adequate for satisfying her requirement of outpatient treatment and was satisfied that the Individual has built "a sobriety-supporting community with advocacy support and continual ability to outreach." *Id*. When asked about the Individual's PEth tests, the DOE Psychologist stated that she believed the two negative PEth tests were "a fairly strong indicator of sobriety." *Id.* at 112. She further explained that the negative PEth tests demonstrated that the Individual was "able to control and manage [his] alcohol use." *Id.* Based on the community support, the Individual's testimony in which he testified about the tools he uses for his sobriety, and the two negative PEth tests, the DOE Psychologist stated her prognosis for the Individual was "good." *Id*. at 113–14.

V. ANALYSIS

[6] In the incident report that the Individual filed with the LSO, he stated that "[t]he original traffic citation was re-written to reckless driving." Ex. 6 at 23. When asked at the hearing if he made a plea agreement, he agreed. Tr. at 103.

Guideline G

An individual may be able to mitigate security concerns under Guideline G through the following conditions:

> (a) So much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
>
> (b) The individual acknowledges his or her maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified alcohol consumption or abstinence in accordance with treatment recommendations;
>
> (c) The individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and
>
> (d) The individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23.

As an initial matter, I do not find that the facts presented support the DOE Psychologist's conclusion that the Individual habitually or binge consumed alcohol to the point of impaired judgment.[7] As noted above, OHA has found habitual consumption of alcohol to be consuming alcohol to the point of intoxication at least once a month and binge consumption of alcohol to be five or more alcoholic drinks consumed in a sitting. *See Personnel Security Hearing,* OHA Case No. TSO-0393 (2006) (finding binge drinking all night on weekends once every two or three months presented a security concern). In this case, the DOE Psychologist based her conclusion on the opinion of the psychiatrist who interpreted the PEth test, which stated that the Individual was consuming "in the midrange of excess consumption over the previous 30 days." Ex. 12 at 72–73. However, the article upon which the psychiatrist based that opinion specifically states that PEth levels between 20 and 200 ng/mL, while categorized as "significant consumption" indicate only a "[m]oderate level of drinking (averaging between 2 to 4 drinks/day for several days a week) . . . which corresponds to the top of the National Institute of Alcoholism and Alcshol[sic] Abuse's (NIAAA) 'low risk' category for men[.]" William Ulwelling & Kim Smith, *The PEth Blood Test*

[7] My finding in this regard is based on the specific standards applicable to concerns based on habitual or binge consumption of alcohol to the point of impaired judgment, not the absence of concerning alcohol-related behavior on the part of the Individual. Among other things, the Individual's dangerous behavior in driving after consuming a significant quantity of alcohol, consumption of alcohol despite it aggravating a health condition, and alcohol consumption on the very day of the psychological evaluation all might have informed a diagnosis of alcohol use disorder by the DOE Psychologist. However, since she declined to make such a diagnosis, I am left to assess the validity of the security concerns that were asserted by the LSO.

in the Security Environment: What it is; Why it is Important; and Interpretative Guidelines, J. OF FORENSIC SCI., July 2018 (emphasis omitted). Thus, the authority relied on by the psychiatrist does not support the interpretation provided here. While the PEth result certainly indicates that the Individual was likely underreporting his alcohol consumption, it does not provide sufficient evidence in of itself to show that he was a habitual or binge consumer of alcohol to the point of impaired judgment based on the definitions that OHA has traditionally used. The Report does not cite any other evidence to support the DOE Psychologist's finding. As such, there is no security concern related to the habitual or binge consumption of alcohol.

Because I find that habitual and binge drinking does not present a security concern, the only remaining basis for the Guideline G concern is the DUI. The Individual has mitigated the security concern pursuant to mitigating factor (a). Notably, the underlying DUI was the Individual's first such offense. As such, the DUI was an unusual event for the Individual. Furthermore, the DUI was in October of 2025, and there is no evidence that the Individual has engaged in any alcohol-related criminal conduct in the year since that date. Additionally, the Individual has provided evidence of reduced drinking since March 2026 in the form of two negative PEth results from June and September 2026, supporting his testimony that he has been alcohol abstinent since March 31, 2026. As such, I conclude that the security concerns are mitigated pursuant to factor (a) as the behavior appears infrequent and enough time has passed, with demonstrations of sobriety, that it does not cast doubt on the Individual's reliability, trustworthiness, or judgment.

The Individual has also mitigated the remaining security concern pursuant to mitigating factor (b). Here, the Individual has acknowledged his maladaptive relationship to alcohol and the need to take concrete steps to prevent future alcohol-related incidents. Since his DUI, the Individual successfully completed a six-month interlock device program, which required him to abstain from alcohol before driving his car, has provided two months of negative PEth results, and has built a sobriety-supporting community to hold him accountable on his sobriety journey. The DOE Psychologist testified that, in her view, the two negative PEth tests that the Individual provided were sufficient evidence to show that the Individual had complied with her recommendation that he demonstrate he can "control his drinking." Given the Individual's acknowledgment of his maladaptive relationship to alcohol, his successful completion of his interlock device program, his demonstrated pattern of, at minimum, controlled drinking since March 31, 2026, and the DOE Psychologist's opinion that the Individual has satisfactorily shown rehabilitation and has a good prognosis, I find that the Individual has mitigated the Guideline G concerns pursuant to factor (b).

Accordingly, I find that the Individual has resolved the security concern asserted by the LSO under Guideline G.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines G 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 brought forth sufficient evidence to resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual's

access authorization should be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Erin C. Weinstock
Administrative Judge
Office of Hearings and Appeals