

§ 709.32

(2) The examiner must have a favorably adjudicated single-scope background investigation, complete a counterintelligence-scope polygraph examination, and must hold a "Q" access authorization, which is necessary for access to Secret Restricted Data and Top Secret National Security Information. In addition, he or she must have been granted SCI access approval.

(3) The examiner must receive basic Forensic Psychophysiological Detection of Deception training from the DODPI.

(4) The examiner must be certified by DOE to conduct the following tests:

- (i) Test for Espionage, Sabotage, and Terrorism;
- (ii) Counterintelligence-Scope Polygraph Tests;
- (iii) Zone Comparison Tests;
- (iv) Modified General Question Tests;
- (v) Peak of Tension Tests; and,
- (vi) Relevant and Irrelevant and Directed Lie Control Tests.

§ 709.32 What are the training requirements for polygraph examiners?

(a) Examiners must complete an initial training course of thirteen weeks, or longer, in conformance with the procedures and standards established by DODPI.

(b) Examiners must undergo annual continuing education for a minimum of forty hours training within the discipline of Forensic Psychophysiological Detection of Deception.

(c) The following organizations provide acceptable curricula to meet the training requirement of paragraph (b) of this section:

- (1) American Polygraph Association,
- (2) American Association of Police Polygraphists, and
- (3) Department of Defense Polygraph Institute.

10 CFR Ch. III (1-1-06 Edition)

PART 710—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SPECIAL NUCLEAR MATERIAL

Subpart A—General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material

GENERAL PROVISIONS

- Sec.
- 710.1 Purpose.
 - 710.2 Scope.
 - 710.3 Reference.
 - 710.4 Policy.
 - 710.5 Definitions.

CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SPECIAL NUCLEAR MATERIAL

- 710.6 Cooperation by the individual.
- 710.7 Application of the criteria.
- 710.8 Criteria.
- 710.9 Action on derogatory information.
- 710.10 Suspension of access authorization.

ADMINISTRATIVE REVIEW

- 710.20 Purpose of administrative review.
- 710.21 Notice to the individual.
- 710.22 Initial decision process.
- 710.23 Extensions of time by the Manager.
- 710.24 Appointment of DOE Counsel.
- 710.25 Appointment of Hearing Officer; pre-hearing conference; commencement of hearings.
- 710.26 Conduct of hearings.
- 710.27 Hearing Officer's decision.
- 710.28 Action on the Hearing Officer's decision.
- 710.29 Final appeal process.
- 710.30 New evidence.
- 710.31 Action by the Secretary.
- 710.32 Reconsideration of access eligibility.

MISCELLANEOUS

- 710.33 Terminations.
- 710.34 Attorney representation.
- 710.35 Time frames.
- 710.36 Acting officials.

APPENDIX A TO SUBPART A OF PART 710—SELECTED PROVISIONS OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED, SEC. 141 (42 U.S.C. 2161), SEC. 145 (42 U.S.C. 2165), SEC. 161 (42 U.S.C. 2201)

APPENDIX B TO SUBPART A OF PART 710—ADJUDICATIVE GUIDELINES APPROVED BY THE PRESIDENT IN ACCORDANCE WITH THE PROVISIONS OF EXECUTIVE ORDER 12968

Supart B [Reserved]

Department of Energy

§ 710.4

AUTHORITY: 42 U.S.C. 7101, *et seq.*; 50 U.S.C. 2401, *et seq.*; Pub. L. 83-703, sec. 141, 68 Stat 940, as amended (42 U.S.C. 2161); Pub. L. 83-703, sec. 145, 68 Stat 942, as amended (42 U.S.C. 2165); Pub. L. 83-703, sec. 161, 68 Stat 948, as amended (42 U.S.C. 2201); E.O. 10450, 3 CFR 1949-1953 comp., p. 936, as amended; E.O. 10865, 3 CFR 1959-1963 comp., p. 398, as amended, 3 CFR Chap. IV; E.O. 12958, 3 CFR 1995, comp., p. 333; E.O. 12968, 3 CFR 1995, comp., p. 391.

Subpart A—General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material

SOURCE: 59 FR 35185, July 8, 1994, unless otherwise noted.

GENERAL PROVISIONS

§ 710.1 Purpose.

(a) This subpart establishes the criteria, procedures, and methods for resolving questions concerning the eligibility of individuals who are employed by, or applicants for employment with, Department of Energy (DOE) contractors, agents, and access permittees, individuals who are DOE employees or applicants for DOE employment, and other persons designated by the Secretary of Energy, for access to Restricted Data or special nuclear material, pursuant to the Atomic Energy Act of 1954, as amended, or for access to national security information.

(b) This subpart is published to implement: Executive Order 12968, 60 FR 40245 (August 7, 1995); Executive Order 12958, 60 FR 19825 (April 20, 1995); Executive Order 10865, 25 FR 1583 (February 24, 1960), as amended; and Executive Order 10450, 18 FR 2489 (April 27, 1954), as amended. This subpart also provides for public information: selected provisions of the Atomic Energy Act of 1954, as amended, set forth in appendix A to this subpart; and the 1997 Adjudicative Guidelines approved by the President and set forth in appendix B to this subpart.

[59 FR 35185, July 8, 1994, as amended at 66 FR 47062, Sept. 11, 2001]

§ 710.2 Scope.

The criteria and procedures outlined in this subpart shall be used in those cases in which there are questions of eligibility for DOE access authorization involving:

(a) Employees (including consultants) of, and applicants for employment with, contractors and agents of the DOE;

(b) Access permittees of the DOE and their employees (including consultants) and applicants for employment;

(c) Employees (including consultants) of, and applicants for employment with, the DOE; and

(d) Other persons designated by the Secretary of Energy.

§ 710.3 Reference.

The pertinent sections of the Atomic Energy Act of 1954, as amended, relative to this regulation are set forth in Appendix A to this subpart.

§ 710.4 Policy.

(a) It is the policy of DOE to provide for the security of its programs in a manner consistent with traditional American concepts of justice and fairness. To this end, the Secretary has established criteria for determining eligibility for access authorization and procedures that will afford those individuals described in § 710.2 the opportunity for administrative review of questions concerning their eligibility for access authorization.

(b) It is also the policy of DOE that none of the procedures established by DOE for determining eligibility for access authorization shall be used for an improper purpose, including any attempt to coerce, restrain, threaten, intimidate, or retaliate against individuals for exercising their rights under any statute, regulation or DOE directive. Any DOE officer or employee violating, or causing the violation of this policy, shall be subject to appropriate disciplinary action.

(c) If the individual is currently awaiting a hearing or trial, or has been convicted of a crime punishable by imprisonment of six (6) months or longer, or is awaiting or serving a form of preprosecution probation, suspended or deferred sentencing, court ordered probation, or parole in conjunction with