

§ 710.20

suspended pending the final determination resulting from the procedures in this subpart.

(b) Within two working days of receipt of the recommendation from the Local Director of Security to suspend the individual's DOE access authorization, the Manager shall review the matter and authorize continuation or suspension of access authorization. The access authorization of an individual shall not be suspended except by the direction of the Manager. This authority to suspend access authorization may not be delegated but may be exercised by a person who has been designated in writing as Acting Manager.

(c) Upon suspension of an individual's access authorization pursuant to paragraph (b) of this section, the individual, the individual's employer, any other DOE Operations Office having an access authorization interest in the individual, and, if known, any other government agency where the individual holds an access authorization, security clearance, or access approval, or to which the DOE has certified the individual's DOE access authorization, shall be notified immediately. The Central Personnel Clearance Index shall also be updated. Notification to the individual shall be made in writing and shall reflect, in general terms, the reason(s) why the suspension has been effected. Pending final determination of the individual's eligibility for access authorization from the operation of the procedures provided in this subpart, the individual shall not be afforded access to classified matter, special nuclear material, or unescorted access to security areas that require the individual to possess a DOE access authorization.

(d) Following the decision to suspend an individual's DOE access authorization, the Manager shall immediately notify the Director, Office of Safeguards and Security, of the action and the reason(s) therefore. In addition, the Manager, within 10 calendar days of the date of suspension, shall notify the Director, Office of Safeguards and Security, of his proposal to conduct an administrative review proceeding, accompanied by an explanation of its basis and a duplicate Personnel Security File.

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

(e) Upon receipt of the Manager's notification, the Director, Office of Safeguards and Security, shall review the matter and confer with the Manager on:

(1) The institution of administrative review procedures set forth in §§ 710.20 through 710.32;

(2) The reinstatement of access authorization; or

(3) Other actions as the Director deems appropriate.

(f) The Director, Office of Safeguards and Security, shall act pursuant to one of these options within 30 calendar days of the receipt of the Manager's notification unless an extension is granted by the Director, Office of Security Affairs.

[59 FR 35185, July 8, 1994, as amended at 66 FR 47064, Sept. 11, 2001]

ADMINISTRATIVE REVIEW

§ 710.20 Purpose of administrative review.

These procedures establish methods for the conduct of the administrative review of questions concerning an individual's eligibility for access authorization when it is determined that such questions cannot be favorably resolved by interview or other action.

§ 710.21 Notice to the individual.

(a) Unless an extension is authorized by the Director, Office of Safeguards and Security, within 30 calendar days of receipt of authority to institute administrative review procedures, the Manager shall prepare and deliver to the individual a notification letter approved by the local Office of Chief Counsel, or the Office of General Counsel for Headquarters cases. Where practicable, the letter shall be delivered to the individual in person.

(b) The letter shall state:

(1) That reliable information in the possession of DOE has created a substantial doubt concerning the individual's eligibility for access authorization.

(2) The information which creates a substantial doubt regarding the individual's access authorization eligibility (which shall be as comprehensive and detailed as the national security

Department of Energy

§ 710.22

permits) and why that information creates such doubt.

(3) That the individual has the option to have the substantial doubt regarding eligibility for access authorization resolved in one of two ways:

(i) By the Manager, without a hearing, on the basis of the existing information in the case;

(ii) By personal appearance before a Hearing Officer (a "hearing").

(4) That, if the individual desires a hearing, the individual must, within 20 calendar days of the date of receipt of the notification letter, indicate this in writing to the Manager from whom the letter was received.

(5) That the individual may also file with the Manager the individual's written answer to the reported information which raises the question of the individual's eligibility for access authorization, and that, if the individual requests a hearing without filing a written answer, the request shall be deemed a general denial of all of the reported information.

(6) That, if the individual so requests, a hearing will be scheduled before a Hearing Officer, with due regard for the convenience and necessity of the parties or their representatives, for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization;

(7) That, if a hearing is requested, the individual will have the right to appear personally before a Hearing Officer; to present evidence in his own behalf, through witnesses, or by documents, or both; and, subject to the limitations set forth in § 710.26(g), to be present during the entire hearing and be accompanied, represented, and advised by counsel or representative of the individual's choosing and at the individual's own expense;

(8) That the individual's failure to file a timely written request for a hearing before a Hearing Officer in accordance with paragraph (b)(4) of this section, unless time deadlines are extended for good cause, will be considered as a relinquishment by the individual of the right to a hearing provided in this subpart, and that in such event a final decision will be made by the Manager; and

(9) That in any proceedings under this subpart DOE Counsel will be participating on behalf of and representing the Department of Energy, and that any statements made by the individual to DOE Counsel may be used in subsequent proceedings.

(c) The notification letter referenced in paragraph (b) of this section shall also:

(1) Describe the individual's access authorization status until further notice;

(2) Advise the individual of the right to representation at the individual's own expense at each and every stage of the proceedings;

(3) Provide the name and telephone number of the designated DOE official to contact for any further information desired concerning the proceedings, including an explanation of the individual's rights under the Freedom of Information and Privacy Acts; and

(4) Include a copy of this subpart.

[59 FR 35185, July 8, 1994, as amended at 66 FR 47064, Sept. 11, 2001]

§ 710.22 Initial decision process.

(a) The Manager shall make an initial decision as to the individual's access authorization eligibility based on the existing information in the case if:

(1) The individual fails to respond to the notification letter by filing a timely written request for a hearing before a Hearing Officer or fails to respond to the notification letter after requesting an extension of time to do so;

(2) The individual's response to the notification letter does not request a hearing before a Hearing Officer; or

(3) The Hearing Officer refers the individual's case to the Manager in accordance with § 710.25(e) or § 710.26(b).

(b) Unless an extension of time is granted by the Director, Office of Safeguards and Security, the Manager's initial decision as to the individual's access authorization eligibility shall be made within 15 calendar days of the date of receipt of the information in paragraph (a) of this section. The Manager shall either grant or deny, or reinstate or revoke, the individual's access authorization.

(c) A letter reflecting the Manager's initial decision in the individual's case