

§ 710.50

10 CFR Ch. III (1–1–99 Edition)

impairment of its activities in furtherance of the common defense and security.

Sec. 161. General provisions. In the performance of its functions the Commission is authorized to:

(a) Establish advisory boards to advise with and make recommendations to the Commission on legislation, policies, administration, research, and other matters, provided that the Commission issues regulations setting forth the scope, procedure, and limitations of the authority of each such board;

(b) Establish by rule, regulation, or order, such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property;

(c) Make such studies and investigations, obtain such information, and hold such meetings or hearings as the Commission may deem necessary or proper to assist it in exercising any authority provided in this chapter, or in the administration or enforcement of this Act, or any regulations or orders issued thereunder. For such purposes the Commission is authorized to administer oaths and affirmations, and by subpoena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place. Witnesses subpoenaed under this subsection, shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

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(i) Prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this Act, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to section 53 or produced by any person in connection with any activity authorized pursuant to the Act, to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, including regulations or orders designating activities, involving quantities of special nuclear material which in the opinion of the Commission are important to the common defense and security, that may be conducted only by persons whose character, associations, and loyalty shall have been investigated under standards and specifications established by the Commission and as to whom the Commission shall have determined that permitting each such person to conduct the activity will not be inimical to the common defense and security, and (3) to govern any activity authorized pursuant to this Act, including standards and restric-

tions governing the design, location, and operation of facilities used in the conduct of such activity, in order to protect health and to minimize danger to life or property;

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(n) Delegate to the General Manager or other officers of the Commission any of those functions assigned to it under this Act except those specified in sections 51, 57b, 61, 108, 123, 145b (with respect to the determination of those persons to whom the Commission may reveal Restricted Data in the national interest), 145f, and 161a;

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(p) Make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this Act.

**Subpart B—Criteria and Procedures for Establishment of the Personnel Security Assurance Program and Determinations of an Individual’s Eligibility for Access to a Personnel Security Assurance Program Position**

SOURCE: 60 FR 20368, Apr. 25, 1995, unless otherwise noted.

GENERAL PROVISIONS

**§ 710.50 Purpose.**

(a) This subpart establishes the policies and procedures for implementing the Department of Energy (DOE) Personnel Security Assurance Program (PSAP) for individuals in positions:

(1) Which afford direct access to or have direct responsibility for transportation or protection of Category I quantities of special nuclear materials (SNM);

(2) Which afford unescorted access to the control areas of a nuclear material production reactor; or

(3) With the potential for causing unacceptable damage to national security.

(b) The DOE Personnel Security Assurance Program is designed to establish the procedures for DOE and DOE contractors to utilize in the selection and continuing evaluation of individuals for assignment to positions described by paragraph (a) of this section.

Individuals selected for assignment to such positions must be granted access authorization in accordance with the procedures and requirements set forth in subparts A and B of this part.

**§ 710.51 Scope.**

The criteria and procedures establishing the Personnel Security Assurance Program shall apply to:

(a) Those employees of, and applicants for employment with, DOE who either occupy or make application for PSAP positions, as described by paragraph (a) of § 710.50.

(b) Those employees of, and applicants for employment with, contractors and agents of the DOE who either occupy or make application for PSAP positions, as described by paragraph (a) of § 710.50.

**§ 710.52 References.**

(a) Atomic Energy Act of 1954, as amended, section 11, "Definitions"; section 141, "Policy"; section 143, "Department of Defense Participation"; section 145, "Restrictions"; section 161 b., "General Provisions"; which provide statutory authority for establishing and implementing a DOE security program for controlling access to Restricted Data and special nuclear material. Copies of selected provisions appear as appendix A to subpart A of this part.

(b) Executive Orders 10450, April 29, 1953, "Security Requirements for Government Employment," 10865, February 20, 1960, "Safeguarding Classified Information Within Industry," and 12564, September 15, 1986, "Drug-Free Federal Workplace," all as amended.

(c) 10 CFR part 707, "Workplace Substance Abuse Programs at DOE Sites," which requires DOE contractors to establish workplace substance abuse prevention programs, including urine drug testing for individuals who occupy sensitive positions such as those requiring a PSAP access authorization.

(d) Implementing directives (DOE Orders) which provide Departmental guidance on the PSAP and related areas are available from the U.S. Department of Energy, Washington, DC 20585, Attention: Directives Distribution.

**§ 710.53 Policy.**

The protection of certain of the DOE's security interests, with the potential, if compromised, of causing unacceptable damage to the national security requires the implementation of a program designed to assure that individuals occupying positions affording access to certain material, facilities, and programs meet the highest standards of reliability. This objective is accomplished under this subpart through a system of continuous evaluation which identifies those individuals whose judgment may be impaired by physical and/or emotional disorders, substance abuse, or the use of alcohol habitually to excess. This process will reduce the risk resulting from the potential threat represented by such employees to an acceptable level. The determination to grant initially and to continue annually the access authorization to a PSAP position is based upon a DOE security assessment of any information of security concern developed in the course of an initial and annual security review process.

**§ 710.54 Definitions.**

As used in this part:

*Contractor* means the contractor and subcontractors at all tiers.

*Direct access* means access to Category I quantities of SNM which would permit an individual to remove, divert, or misuse that material in spite of any controls that have been established to prevent such unauthorized actions.

*Illegal drugs* means a controlled substance included in Schedules I, II, III, IV, or V, as defined by 21 U.S.C. 802(6), the possession of which is unlawful under chapter 13 of that title. The term "illegal drugs" does not apply to the use of a controlled substance in accordance with the terms of a valid prescription, or other uses authorized by law.

*Management official* means an individual designated by the DOE or a DOE contractor, as appropriate, who has programmatic responsibility for PSAP positions.

*Occurrence* means any event or incident that is a deviation from the planned or expected behavior or course of events in connection with any Department of Energy or Department of