

## PARTS 700-705 [RESERVED]

### PART 706—SECURITY POLICIES AND PRACTICES RELATING TO LABOR-MANAGEMENT RELATIONS

#### GENERAL

Sec.

706.1 Purpose.

706.2 Basis and scope.

#### SECURITY POLICIES AND PROCEDURES IN NATIONAL LABOR RELATIONS BOARD PROCEEDINGS

706.10 Policy.

706.11 Consent elections.

706.12 Administrative Law Judges.

706.13 Clearance of counsel.

706.14 DOE's role in proceedings.

#### LOYALTY OF PARTICIPANTS

706.20 Policy.

#### CONTRACT NEGOTIATION AND ADMINISTRATION

706.30 Clearance of certain local union representatives.

706.31 Clearance of conciliators and arbitrators.

706.32 Security indoctrination of non-employee representatives.

706.40 Final responsibility of DOE in security matters.

AUTHORITY: Sec. 161, 68 Stat. 948, as amended; 42 U.S.C. 2201.

SOURCE: 41 FR 56776, Dec. 30, 1976, unless otherwise noted.

#### GENERAL

##### § 706.1 Purpose.

The purpose of this part is to set forth Department of Energy, hereinafter "DOE," security policies and practices in the area of labor-management relations.

##### § 706.2 Basis and scope.

The specific policies contained in this part are worked out within the framework of DOE's general objectives for labor-management relations in the DOE program, namely:

(a) Wholehearted acceptance by contractors and by labor and its representatives of the moral responsibility inherent in participation in the DOE program;

(b) Development of procedures to assure (1) that all participants in the program are loyal to the United States in-

cluding those whose participation involves the exercise of negotiating and disciplinary authority over bargaining units, and (2) that determination of unit, jurisdiction, and similar questions will not breach security;

(c) Continuity of production at vital DOE installations;

(d) Consistent with DOE's responsibility under the law, the least possible governmental interference with the efficient management expected from DOE contractors;

(e) Minimum interference with the traditional rights and privileges of American labor.

#### SECURITY POLICIES AND PROCEDURES IN NATIONAL LABOR RELATIONS BOARD PROCEEDINGS

##### § 706.10 Policy.

It is policy of DOE that NLRB cases falling within the scope of the Labor Management Relations Act at the various DOE installations should be conducted in normal fashion wherever possible, on the basis of open hearings, unclassified records and published decisions. This policy does not preclude adoption of special arrangements which may be required for reasons of program security at any stage of the proceedings in particular areas.

##### § 706.11 Consent elections.

In accordance with the recommendation of the President's Commission on Labor Relations in the Atomic Energy Installations, it is the policy of DOE to encourage every effort by management and labor at DOE installations to determine bargaining units and representatives by agreement and consent elections in preference to contested proceedings before the National Labor Relations Board.

##### § 706.12 Administrative Law Judges.

By agreement with the National Labor Relations Board, a panel of cleared NLRB administrative law judges is maintained to facilitate resolution of questions as to the materiality of classified information in NLRB hearings and to facilitate preparation of an unclassified record. The assignment of individual administrative law judges to DOE cases remains a matter

### § 706.13

within the discretion of the National Labor Relations Board.

#### § 706.13 Clearance of counsel.

It is recognized that clearance of counsel for the parties is sometimes desirable for proper preparation of a case even though the record is to be unclassified. Clearance of counsel makes possible their participation in any closed discussions needed preparatory to making an unclassified record. Each party is responsible for requesting clearance of its counsel well in advance so that clearance requirements will not delay the proceeding. The clearance of temporary special counsel will be terminated on completion of the proceeding.

#### § 706.14 DOE's role in proceedings.

If controversies within the scope of the Labor Management Relations Act arise which cannot be adjusted by mutual agreement, and contested proceedings before NLRB result, each party to such proceedings will present his own position and the evidence in support thereof with due regard for existing security rules. DOE will be continuously informed of the progress of such proceedings and will act as may appear desirable (a) to assure the protection of classified information; (b) to assure that material and relevant information is not withheld from the record on grounds of security if such information can be supplied in unclassified form; and (c) to assist in determining appropriate action where a decision may turn on data which can be expressed only in classified form.

#### LOYALTY OF PARTICIPANTS

#### § 706.20 Policy.

Loyalty to the United States is a paramount factor applicable to all participants in DOE program including those whose participation (although not requiring access to restricted data) involves the exercise of administrative, negotiating and disciplinary authority over bargaining units composed of employees engaged on classified work. Individuals involved in questions of loyalty will be given full opportunity to explore the questions with DOE. DOE will take such further steps as may be appropriate in the circumstances.

### 10 CFR Ch. III (1-1-25 Edition)

#### CONTRACT NEGOTIATION AND ADMINISTRATION

#### § 706.30 Clearance of certain local union representatives.

It is recognized that security clearance of certain union representatives may be necessary to assure opportunity for effective representation of employees in collective bargaining relationships with DOE contractors. Accordingly, DOE managers may authorize investigation for "Q" clearance of union officials whose functions as representatives of employees may reasonably be expected to require access to Restricted Data under NLRB and other procedures according to applicable law (LMRA, 1947); to effectively perform their representation functions in the resolution of grievances and in other collective bargaining relationships with contractors; to effectuate the recommendation of the President's Commission on Labor Relations in the Atomic Energy Installations in respect to integration of the union into the plant organization "as to two-way channel of communication and a medium of understanding between management and workers".

(a) In the pre-contract stage of union-management relations, the requirements of the Labor Management Relations Act normally will be the applicable criteria for determining which bargaining representatives, if any, will need access to classified material in the exercise of their functions as employee representatives.

(b) After a bargaining relationship has been established between the contractor and the representatives of its employees the nature of this relationship and the procedures followed in it normally will be the controlling criteria for determination of the access to be granted to particular persons in carrying out their functions as employee representatives. For example, many contract grievance procedures designate by title certain union and management officials who are to have definite roles in the resolution of grievances under the procedure. Investigation for "Q" clearance will normally be

## Department of Energy

## § 707.2

in order for such officials, both company and union, employee, and non-employee. In addition, persons not so designated may be investigated for clearance where the company and the union advise DOE manager that their established relationships contemplate access for such persons.

### § 706.31 Clearance of conciliators and arbitrators.

Conciliators and arbitrators who are regularly assigned to DOE cases may be processed for “Q” clearance at the discretion of the local DOE manager, either on the manager’s initiative or at the request of a contractor.

### § 706.32 Security indoctrination of non-employee representatives.

All collective bargaining representatives, company and union, who are to have access to Restricted Data, will be given appropriate security indoctrination.

### § 706.40 Final responsibility of DOE in security matters.

On all matters of security at all Government-owned, privately operated DOE installations, DOE retains absolute and final authority, and neither the security rules nor their administration are matters for collective bargaining between management and labor, insofar as DOE security regulations affect the collective bargaining process, the security policies and regulations will be made known to both parties. To the fullest extent feasible DOE will consult with representatives of management and labor in formulating security rules and regulations that affect the collective bargaining process.

## PART 707—WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES

### Subpart A—General Provisions

Sec.

707.1 Purpose.

707.2 Scope.

707.3 Policy.

707.4 Definitions.

### Subpart B—Procedures

707.5 Submission, approval, and implementation of a baseline workplace substance abuse program.

707.6 Employee assistance, education, and training.

707.7 Random drug testing requirements and identification of testing designated positions.

707.8 Applicant drug testing.

707.9 Drug testing as a result of an occurrence.

707.10 Drug testing for reasonable suspicion of illegal drug use.

707.11 Drugs for which testing is performed.

707.12 Specimen collection, handling, and laboratory analysis for drug testing.

707.13 Medical review of results of tests for illegal drug use.

707.14 Action pursuant to a determination of illegal drug use.

707.15 Collective bargaining.

707.16 Records.

707.17 Permissible actions in the event of contractor noncompliance.

AUTHORITY: 41 U.S.C. 8102 *et seq.*; 42 U.S.C. 2012, 2013, 2051, 2061, 2165, 2201b, 2201i, and 2201p; 42 U.S.C. 5814 and 5815; 42 U.S.C. 7151, 7251, 7254, and 7256; 50 U.S.C. 2401 *et seq.*

SOURCE: 57 FR 32656, July 22, 1992, unless otherwise noted.

### Subpart A—General Provisions

#### § 707.1 Purpose.

The Department of Energy (DOE) promulgates this part in order to protect the environment, maintain public health and safety, and safeguard the national security. This part establishes policies, criteria, and procedures for developing and implementing programs that help to maintain a workplace free from the use of illegal drugs. It applies to DOE contractors and subcontractors performing work at sites owned or controlled by DOE and operated under the authority of the Atomic Energy Act of 1954, as amended, and to individuals with unescorted access to the control areas of certain DOE reactors. The procedures include detection of the use of illegal drugs by current or prospective contractor employees in testing designated positions.

#### § 707.2 Scope.

(a) This part applies to the following contracts with DOE, at sites owned or controlled by DOE which are operated