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NSI, the requester may, within 30 calendar days of its receipt, appeal the determination to the Director of Security Affairs.

(c) *Elements of appeal.* The appeal shall be in writing and addressed to the Chief Health, Safety and Security Officer, HS-1/Forrestal Building, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. The appeal shall contain a concise statement of grounds upon which it is brought and a description of the relief sought. It should also include a discussion of all relevant authorities which include, but are not limited to DOE (and predecessor agencies) rulings, regulations, interpretations, and decisions on appeals, and any judicial determinations being relied upon to support the appeal. A copy of the letter containing the determination being appealed shall be submitted with the appeal.

(d) *Receipt of appeal.* An appeal shall be considered to be received upon receipt by the Chief Health, Safety and Security Officer.

(e) *Action within 60 working days.* The appeal authority shall act upon the appeal within 60 working days of its receipt. If no determination on the appeal has been issued at the end of the 60-day period, the requester may consider his or her administrative remedies to be exhausted and may seek a review by the Interagency Security Classification Appeals Panel (ISCAP). When no determination can be issued within the applicable time limit, the appeal shall nevertheless continue to be processed. On expiration of the time limit, DOE shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be issued, and of his or her right to seek further review by the ISCAP. Nothing in this subpart shall preclude the appeal authority and the requester from agreeing to an extension of time for the decision on an appeal. The Chief Health, Safety and Security Officer shall confirm any such agreement in writing and shall clearly specify the total time agreed upon for the appeal decision.

(f) *Form of action on appeal.* The Chief Health, Safety and Security Officer's action on an appeal shall be in writing

and shall set forth the reason for the decision. The Department may refuse to confirm or deny the existence or nonexistence of requested information whenever the fact of its existence or nonexistence is itself classified under E.O. 12958.

(g) *Right of final appeal.* The requester has the right to appeal a final Department decision or a failure to provide a determination on an appeal within the allotted time to the ISCAP for those appeals dealing with NSI. In cases where NSI documents also contain RD and FRD, the RD and FRD portions of the document shall be deleted prior to forwarding the NSI and unclassified portions to the ISCAP for review.

[62 FR 68509, Dec. 31, 1997, as amended at 71 FR 68737, Nov. 28, 2006]

PART 1046—PHYSICAL PROTECTION OF SECURITY INTERESTS

Subpart A—General

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APPENDIX A TO SUBPART B OF PART 1046—
MEDICAL AND PHYSICAL FITNESS QUALIFICATION STANDARDS

APPENDIX B TO SUBPART B OF PART 1046—
TRAINING AND QUALIFICATION FOR SECURITY SKILLS AND KNOWLEDGE

AUTHORITY: Sec. 2201, Pub. L. 83-703, 68 Stat. 919 (42 U.S.C. 2011 *et seq.*); sec. 7151, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*)

SOURCE: 58 FR 45791, Aug. 31, 1993, unless otherwise noted.

Subpart A—General

§ 1046.1 Purpose.

The purpose of this part is to set forth Department of Energy, hereinafter “DOE,” security policies and procedures regarding the physical protection of security interests.

§ 1046.2 Scope.

This part applies to DOE contractor employees at Government-owned facilities, whether or not privately operated.

§ 1046.3 Definitions.

For the purposes of this part:

Contractor. The term “contractor” includes subcontractors at all tiers.

Defensive combative personnel. Security police officers other than offensive combative personnel.

Designated physician. An occupational medical physician who is recommended by the designated management supervisory official of the local DOE field office and authorized by the Director, Office of Health and Safety, to determine the medical and physical condition of protective force personnel. When an occupational medical physician is not available, physicians who are not board-certified in occupational medicine may be recommended and authorized by the Director as designated physicians for the purpose of this part. Designated physicians need not be employed full-time, but contractually shall be responsible to DOE for performance of the medical functions required by this part.

Facility. An educational institution, manufacturing plant, laboratory, office building or other area utilized by the DOE or its contractors or subcontractors for the performance of work under DOE jurisdiction.

Field organization. Any organizational component of the DOE located outside the Washington, DC metropolitan area.

Guard. Also referred to as Security Officer, an unarmed individual who is employed for, and charged with, the protection of classified matter or Government property.

Medical condition. General health, physical condition, and emotional and mental stability.

Offensive combative personnel. Security police officers assigned to response

force duties including pursuit and assault functions.

Protective force personnel. Security officers and security police officers assigned to protective details, who are employed to protect DOE security interests.

Requalification date. The date of expiration of current qualification at which demonstration of knowledge, skills and/or abilities is required to maintain specific job status.

Security inspector. Also referred to as Security Police Officer, a uniformed person who is authorized under section 161.k of the Atomic Energy Act of 1954, as amended, or other statutory authority, to carry firearms and to make arrests without warrants and who is employed for, and charged with, the protection of classified matter, special nuclear material, or other Government property.

Security police officer. An armed member of the protective force, previously referred to as a “security inspector.”

Special response team member. A security police officer who has been selected to be part of a unit specially trained to provide additional protection capability.

[58 FR 45791, Aug. 31, 1993, as amended at 71 FR 68738, Nov. 28, 2006]

§ 1046.4 Use of number and gender.

As used in this part, words in the singular also include the plural and words in the masculine also include the feminine and vice versa, as the use may require.

Subpart B—Protective Force Personnel

§ 1046.11 Medical and physical fitness qualification standards.

(a) Except as provided in paragraph (b) of this section DOE contractors shall not employ as protective force personnel any individual who fails to meet the applicable medical and physical fitness qualification standards as set forth in appendix A, to this subpart, “Medical and Physical Fitness Qualification Standards.”

(b)(1) Incumbent security police officers shall meet the applicable physical fitness qualification standards.

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(2) Current waivers to the medical qualification standards remain in effect and future waivers are permitted.

(c) Each security police officer shall meet the applicable medical and physical fitness qualification standards every twelve months after the initial qualification. Each security officer shall meet the applicable medical standards every two (2) years after the initial qualification.

[58 FR 45792, Aug. 31, 1993; 58 FR 60102, Nov. 15, 1993]

§ 1046.12 Physical fitness training program.

(a) Each incumbent security police officer, who has not met the applicable physical fitness qualification standard, shall participate in a DOE approved physical fitness training program. Once an incumbent security police officer has begun a physical fitness training program, it must be completed before the security police officer may take the applicable physical fitness qualification standards test. Once a physical fitness training program is completed, an incumbent security police officer has thirty (30) days to meet the applicable physical fitness qualification standards.

(b) An incumbent security police officer who fails to qualify within thirty (30) days of completing a physical fitness training program shall participate in an additional training program. Upon completion of the additional physical fitness training program the security police officer has thirty (30) days to meet the applicable physical fitness qualification standard. No additional training or time extension to meet the standards is permitted except for unusual circumstances as set forth in appendix A to this subpart, paragraph G(2).

(c) A security police officer who fails to requalify within thirty (30) days after his or her yearly anniversary date of the initial qualification shall participate in a physical fitness training program. Security police officers have a maximum of six (6) months from the anniversary date to requalify.

(d) After his or her initial qualification, each incumbent security police officer shall participate in a DOE-approved physical fitness training pro-

gram on a continuing basis. This training is for the purpose of ensuring that security police officers maintain the requisite physical fitness for effective job performance and to enable the individual security police officer to pass the applicable annual physical fitness requalification test without suffering any undue physical injury.

§ 1046.13 Medical certification.

Each individual shall have a medical examination within thirty (30) days preceding participation in a physical fitness training program and the physical fitness qualification standards test, and a determination and written certification by a designated physician that there are no foreseeable medical risks as disclosed by the medical examination to the individual's participation in a physical fitness training program and the physical fitness qualification standards test.

§ 1046.14 Access authorization.

Protective force personnel shall possess current access authorization for the highest level of classified matter to which they potentially have access. Security police officer personnel who have access to Category I or II quantities of special nuclear material (SNM) will be "Q" cleared. The specific level of access authorization for each duty assignment shall be designated by the site security organization and approved by the Head of the Field Element. Security police officers shall possess a minimum of an "L" or DOE Secret access authorization. Security police officers possessing less than "Q" access authorization shall not be assigned to offensive positions or duties where fully automatic firearms are required.

§ 1046.15 Training and qualification for security skills and knowledge.

(a) DOE contractors shall only employ as protective force personnel individuals who successfully meet the requirements of a formal training program established in accordance with

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appendix B, “Training and Qualification for Security Skills and Knowledge,” to this subpart. The DOE contractor shall maintain individual training records until 1 year after the termination of the individual as a member of the protective force, unless a longer retention period is specified by other requirements.

(b) DOE contractors shall employ as security police officers, including Special Response Team members, only individuals who are fully qualified and meet the firearms qualification standards set forth in appendix B to this subpart.

§ 1046.16 Training certification.

DOE contractors shall employ as protective force personnel only individuals who have successfully completed all applicable training and qualification standards set forth in this subpart including appendices A and B. The DOE contractor shall maintain records of certification for each individual until 1 year after the termination of the individual as a member of the protective force, unless a longer retention period is specified by other requirements.

APPENDIX A TO SUBPART B OF PART 1046—MEDICAL AND PHYSICAL FITNESS QUALIFICATION STANDARDS

A. *Applicability.* This appendix A to subpart B of part 1046 provides the minimum, medical and physical fitness qualifications, criteria and guides to be used by designated physicians and management supervisory officials in advising responsible DOE officials whether the medical and physical condition of protective force personnel to be employed by DOE contractors reasonably assures that they can effectively perform their normal and emergency duties without undue hazard to themselves, fellow employees, the plant site and the general public.

B. *Application of Medical and Physical Fitness Qualification Standards.*

(1) The standards in this appendix are the minimum necessary to determine the medical and physical capability of protective force personnel to perform all normal and emergency duties effectively and safely.

(2) Security police officer applicants shall meet the applicable medical and physical fitness standards in this appendix prior to assignment to security police officer duties.

(3) Incumbent security police officers shall meet the applicable physical fitness standards in this appendix within one year of the effective date of these standards and once

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every twelve months thereafter or shall be relieved of security police officer duties subject to the provisions in paragraph G of this appendix.

(4) Incumbent security police officers shall meet the applicable medical standards prior to assignment to security police officer duties and annually thereafter, subject to the provisions of paragraph G of this appendix.

(5) Security officers shall meet the applicable standards in this appendix prior to assignment to security officer duties and biennially thereafter, subject to the provisions of paragraph J of this appendix.

(6) The determination of whether or not the examinee meets the medical standards in this appendix shall be made by a designated physician.

(7) The determination of whether or not the examinee meets the physical fitness standards in this appendix shall be made by a designated management supervisory official in coordination with a designated physician.

(8) When a designated physician determines that special medical evaluations and practical performance tests are necessary in order for an examinee to demonstrate the examinee’s abilities to perform all normal and emergency duties, a determination of the adequacy of performance shall be made by a designated physician.

(9) For those facilities where it is necessary to determine the medical qualification of security police officers or security police officer applicants to perform special assignment security police officer duties which might require exposure to unusually high levels of stress or physical exertion, field office managers may develop more stringent medical qualification requirements or additional medical or physical tests as necessary for such determinations. All such additional qualification requirements shall be forwarded, with justification, for the approval of the Chief Health, Safety and Security Officer, prior to application and if approved, shall be implemented in the same manner that these qualification standards have been implemented.

(10) The provisions of DOE 5480.1A, ENVIRONMENTAL PROTECTION, SAFETY, AND HEALTH PROTECTION PROGRAM FOR DOE OPERATIONS, of 8–13–81, Chapter VIII, Part 4 (including any updates) apply for return to work after recovery from a temporarily disqualifying medical or surgical condition.

C. *Administrative Procedures and Requirements.*

(1) *Medical Confidentiality and Retention of Medical Reports.*

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(a) The medical information and data on each employee or applicant shall be maintained as confidential, privileged medical information and shall not be released by a designated physician without the written consent and release of the employee or applicant, except as permitted or required by law.

(b) When an individual has been examined by a designated physician, all available history and test results should be retained by the responsible DOE or DOE contractor medical department, in accordance with DOE 5480.1A, Chapter VIII, Part 4, whether or not the individual completes the examination, and whether or not potentially disqualifying defects are recorded.

(2) *Change of Health Status of Protective Force Personnel.*

(a) It is the specific responsibility of protective force employees to report immediately to their supervisor any known or suspected change in their health which might impair their capacity for duty or the safe and effective performance of assigned job duties.

(b) Supervisory personnel have the responsibility to make a timely report to a designated physician on any behavioral and health changes and deterioration in work performance that is observed in protective force personnel under their jurisdiction. Examples of areas that may indicate medical and emotional problems include: incidents of ineptness, poor judgment, lack of physical or emotional stamina, social incompatibility, excessive absence, lateness, and a tendency to become accident prone.

(3) *Use of Corrective Devices.*

(a) When the use of corrective devices, such as eyeglasses and hearing aids, is required to enable an examinee to meet successfully medical qualification requirements, a determination shall be made by a designated line supervisory authority that the use of all such devices is compatible with all emergency and protective equipment that the examinee may be required to wear or use while performing his or her assigned job duties.

(b) It is incumbent upon cognizant field office management to exercise all reasonable and practicable effort to accommodate required emergency and protective equipment to the use of corrective devices, including the provision of equally effective alternate equipment if such is available.

(c) If eyeglasses are used, they shall be of the safety glass type.

D. *Security Police Officer Medical Qualification Standards.*

(1) *General Qualifications.* The examinee shall possess mental, sensorial, and motor skills as required to perform safely and effectively all assigned job duties. Such qualifications include:

(a) Mental alertness and reliable judgment;

(b) Acuity of senses and ability of expression sufficient to allow accurate communica-

tion by written, spoken, audible, visible, or other signals; and,

(c) Motor power, range of motion, neuromuscular coordination and dexterity.

(2) *Specific Minimum Qualifications.*

(a) *Head, Face, Neck, Scalp.* Configuration suitable for fitting and effective use of personal protective equipment when the use of such equipment is required by assigned normal or emergency job duties.

(b) *Nose.* Ability to detect odor of products of combustion and of tracer and marker gases.

(c) *Mouth and Throat.* Capacity for clear and audible speech as required for effective communication on the job.

(d) *Ears.* Hearing loss in the better ear not to exceed 30 db average at 500, 1000, 2000 Hz with no level greater than 40 db in any of these frequencies (by ISO 1964 and ANSI 1969 audiometry). If a hearing aid is necessary, suitable testing procedures shall be used to assure auditory acuity equivalent to the above requirement.

(e) *Eyes*

(1) *Distant Visual Acuity.*

(a) Uncorrected acuity of no less than 20/200 in the better eye.

(b) Corrected acuity of at least 20/30 in the better eye and 20/40 in the other eye.

(c) If uncorrected distant vision in the better eye is not at least 20/40, security police officers shall carry an extra pair of corrective lenses.

(2) *Near Visual Acuity.* Corrected or uncorrected vision of at least 20/40 (14/28 Snellen) in the better eye.

(3) *Color Vision.* Ability to distinguish red, green, and yellow. Special color vision testing and certification shall be required where fine color discrimination is critical to the safe or effective performance of assigned job tasks.

(4) *Peripheral Vision.* Field of vision in the horizontal meridian shall not be less than a total of 140 degrees.

(5) *Depth Perception.* Adequate depth perception as measured by stereopsis or demonstration in a practical operational test.

(f) *Cardiorespiratory.*

(1) *Respiratory.* Capacity and reserve to perform physical exertion in emergencies at least equal to the demands of the job assignment, and ability to utilize respiratory protective filters and air supply masks when this emergency equipment is required by assigned job requirements.

(2) *Cardiovascular.* Normal configuration and function. Capacity for exertion during emergencies. Normal resting pulse; regular pulse. Full symmetrical pulses in extremities and neck. Normotensive, with tolerance to rapid postural changes. If an examination reveals significant cardiac arrhythmia, murmur, enlargement, hypertension, hypotension, or other evidence of cardiovascular abnormality, an evaluation by a specialist in

internal medicine or cardiology may be required and evaluated by a designated physician.

(g) *Abdomen and Viscera*. No clinically significant abnormalities.

(h) *Musculo-Skeletal*. Normal symmetrical structure, range of motion, and power.

(i) *Skin*. No significant abnormal intolerance to chemical, mechanical and other physical agents. Capability to tolerate use of personal protective covering and decontamination procedures when required by assigned job duties.

(j) *Endocrine/Nutritional/Metabolic*.

Endocrine/nutritional/metabolic status adequate to meet the stresses and demands of assigned normal and emergency job duties. Ability to accommodate to changing work and meal schedules without potential or actual incapacity.

(k) *Hematopoietic*. Normal function.

(l) *Lymphatic*. Normal.

(m) *Neurological*. Normal central and peripheral nervous system function.

(n) *Mental and Emotional*. Normal mental status and an absence of neurotic or psychotic conditions which would affect adversely an ability to handle firearms safely or to act safely and effectively under normal and emergency conditions.

(o) *Laboratory*.

(1) *Hemogram*. Freedom from clinically significant abnormalities of the formed elements of the blood that could reasonably be expected to affect the safe and effective performance of assigned duties.

(2) *Urinalysis*. Absence of proteinuria and glycosuria unless the absence of a disqualifying systemic or genitourinary condition and the absence of significant microscopic abnormality has been demonstrated.

(3) *Other Studies*. Any other medical investigative procedure, including electrocardiogram and chest x-ray, which a designated physician considers necessary for adequate medical evaluation.

E. *Security Police Officer Medical Disqualification Standards*.

(1) *Freedom from Incapacity*. The examinee shall be free of any condition, habit, or practice which could reasonably be expected to result in sudden, subtle, or unexpected incapacitation.

(2) *Conditions for Medical Disqualification*. The presence of any of the following conditions shall disqualify the examinee from employment as a security police officer.

(a) *Respiratory*. Significant pulmonary pathology or decrease in pulmonary function which could interfere with the safe and effective performance of assigned job duties.

(b) *Cardiovascular*.

1. Ischemic Heart Disease
2. Myocardial Infarction
3. Coronary Insufficiency
4. Angina Pectoris

5. Heart Failure

6. Significant Arrhythmia

7. Arterial Aneurysm

8. Significant Peripheral Vascular Insufficiency

9. Corrosive Heart Surgery

10. Corrective Arterial or Great Vessel Surgery

11. Prosthetic Valve

12. Artificial Pacemaker

(c) *Endocrine/Nutritional/Metabolic*.

(1) Any endocrine, nutritional, or metabolic condition that would not allow the examinee adequately to meet the stresses and demands of assigned normal or emergency job duties.

(2) Inability to accommodate to changing work schedules or to a delay in meals without potential or actual incapacity.

(3) Inability to tolerate prolonged use of wearing of protective garments such as respirator masks, air masks, or bullet resistant garments.

(4) Diabetes mellitus requiring the use of insulin. Uncontrolled diabetes, ketoacidosis, or diabetic coma within the previous 2 years.

(5) Obesity of such degree that it would interfere with the safe and effective performance of normal and emergency job duties.

(d) *Skin*. Recurrent severe dermatitis or hypersensitivity to irritants or sensitizers sufficient to interfere with wearing required personal protective equipment or likely to be aggravated by or interfere with established or required decontamination procedures.

(e) *Hematopoietic Dysfunction*. Clinically significant hematopoietic disorders which may interfere with the safe and effective performance of assigned job duties.

(f) *Malignant Neoplasms*. Malignant neoplastic disease.

(g) *Neurological*.

(1) History of epilepsy or other convulsive disorder.

(2) History of any disturbance of consciousness or neurological disease or any other presently existing condition that may interfere with the safe and effective performance of assigned job duties.

(h) *Eyes*. Total blindness in one or both eyes.

(i) *Mental and Emotional*. An established history or clinical diagnosis of any of the following:

(1) Any psychological or mental condition which could cause impaired alertness, judgment, or motor ability. A history of clinically significant emotional or behavioral problems shall require thorough clinical evaluation which may include, but not necessarily be limited to, psychological testing and psychiatric evaluation.

(2) Attempted suicide or an expressed threat of suicide.

(3) A condition in which a person's intake of alcohol is sufficient to damage his or her

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physical health, job performance, personal functioning, or when alcohol has become a prerequisite to his or her daily functioning.

(4) A condition in which a person is addicted to or dependent on drugs as evidenced by habitual use or a clear sense of need for the drug.

(5) The use of prescribed or otherwise legally obtainable medication taken in such a dosage that a temporary delay in taking such medication might result in unacceptable incapacity. Examples of such medications are certain dosages or requirements for steroids, anticoagulants, antiarrhythmics, sedatives, and tranquilizers.

F. Physical Fitness Standards for Security Police Officers.

All persons authorized to carry firearms must meet a minimum standard of physical fitness. There are two categories for such persons: Offensive Combative and Defensive Combative. Persons not authorized to carry firearms are exempt from these physical fitness standards.

(1) *Offensive Combative Standard* must be met by all security police officers assigned to response force duties. The standard is a one (1) mile run with a maximum qualifying time of 8 minutes 30 seconds and a 40 yard prone-to-running dash with a maximum qualifying time of 8.0 seconds.

(2) *Defensive Combative Standard* must be met by all other security police officers authorized to carry firearms. The standard is one-half (0.5) mile run with a maximum qualifying time of 4 minutes 40 seconds and a 40 yard prone-to-running dash with a maximum qualifying time of 8.5 seconds.

(3) *Qualification* in the appropriate combative standard must be accomplished once every twelve months and under the supervision of the protective force training officer or other individuals designated by the responsible DOE field office.

(4) Medical Certification.

(a) Each individual who participates in a physical fitness training program to prepare to meet the physical fitness standards set forth in this appendix shall first be certified by a designated physician that he or she is medically fit to participate in the program. This certification shall be obtained not more than 30 days prior to each individual entering the physical fitness training program.

(b) Before any individual takes the physical fitness standards test he or she shall first be certified by a designated physician that he or she is medically fit to take the physical fitness qualification test. This certification shall be obtained not more than 30 days before taking the physical fitness qualification test.

(c) Individuals who require less than 30 days training prior to actual testing to meet the physical fitness standards need only obtain a single medical certification.

(5) *Initial Qualification Time Limit.* Individuals authorized to carry firearms shall meet the applicable physical fitness standard by September 30, 1994 and annually, thereafter using the date of initial qualification as the anniversary date.

(6) *New Employees.* Individuals authorized to carry firearms who are employed after September 30, 1993 shall meet the applicable physical fitness standard prior to his or her initial assignment to duties which requires such individual to carry firearms.

(7) *Training Program.* Incumbent security police officers shall participate in a physical fitness training program.

(8) *Retesting.* During each testing period a security police officer shall be permitted a maximum of six (6) and a minimum of two (2) opportunities to qualify or requalify before such security police officer must enter a training program or is removed from a security police officer position.

G. Waiver of Security Police Officer Medical Standards and Time Extension to Meet Physical Fitness Standards.

(1) Waivers of elements of the medical standards of this appendix may be granted for certain otherwise disqualifying medical or physical deficiencies by the cognizant field office management provided that:

(a) The DOE field organization authority, in consultation with a designated physician, determines that a certain medical or physical defect may be considered for waiver without compromising the intent of these medical standards to assure that all security police officers are capable of safely and effectively performing all normal and emergency duties.

(b) The individual demonstrates by medical examination and/or practical test, as determined necessary by a designated physician, the ability to perform effectively and safely all routine and emergency duties.

(c) A statement of demonstrated ability must be prepared by a designated physician and must clearly (1) identify the individual, (2) state the nature and degree of the specific medical or physical defect, and (3) record the satisfactory medical evaluation and/or performance of the practical test required by a designated physician.

(d) Waivers shall be reviewed, revalidated, and reissued at intervals not to exceed one (1) year.

(e) Individuals who have been adversely affected by application of the standards may appeal the denial of waiver to the cognizant DOE safeguards and security field office for review within 60 days after the adverse action. Further evidence may be offered relating solely to the medical or physical fitness of the individual involved. Such individual may select a representative of his or her own choice to assist and/or appear in the individual's behalf in any appeal. After findings and a determination have been made at the field

office level, such individual has a right to petition the Chief Health, Safety and Security Officer, within 30 days of the field office's determination for a final determination based upon his or her review of the record of the case.

(2) There will be no waivers granted from the physical fitness standards set forth in paragraph F of this appendix. However, time extensions not to exceed 6 months may be granted on a case-by-case basis for those individuals who, because of a temporary medical or physical condition as certified by a designated physician, are unable to satisfy the physical fitness standards within the required time period without suffering undue physical harm.

(H) *Security Officer Medical Qualification Standards.*

(1) *General Qualifications.* The examinee shall possess mental, sensory, and motor skills as required to perform safely and effectively all assigned job duties. Such qualifications include:

- (a) Mental alertness and reliable judgment.
- (b) Acuity of senses and ability of expression sufficient to allow accurate communication by written, spoken, audible, visible, or other signals.
- (c) Motor power, range of motion, neuromuscular coordination, and dexterity.

(2) *Specific Minimum Qualifications.*

(a) *Head, Face, Neck, and Scalp.* Configuration suitable for fitting and effective use of personal protective equipment when the use of such equipment is required by assigned normal or emergency job duties.

(b) *Nose.* Ability to detect odor of products of combustion and of tracer or marker gases.

(c) *Mouth and Throat.* Capacity for clear and audible speech as required for effective communication on the job.

(d) *Ears.* Hearing loss not to exceed 50 db average at 500, 1000, and 2000 Hz in one ear (by ISO 1964 or ANSI 1969 audiometry).

(e) *Eyes.* Near and distant visual acuity, with or without correction of at least 20/40 in the better eye. One-eyed individuals may qualify.

I. *Security Officer Medical Disqualification Standards.*

(1) *Freedom from Incapacity.* The examinee shall be free of any condition, habit, or practice which could reasonably be expected to result in sudden, subtle, or unexpected incapacitation.

(2) *Conditions for Medical Disqualification.* The presence of any of the following conditions normally shall disqualify the examinee from employment as a security officer.

(a) *Respiratory.* Significant pulmonary pathology or decrease in pulmonary function which could interfere with the safe and effective performance of assigned job duties.

(b) *Cardiovascular.*

1. Ischemic Heart Disease

- 2. Myocardial Infarction
- 3. Coronary Insufficiency
- 4. Angina Pectoris
- 5. Heart Failure
- 6. Significant Arrhythmia
- 7. Arterial Aneurysm
- 8. Significant Peripheral Vascular Insufficiency

(c) *Endocrine/Nutritional/Metabolic.*

(1) *Diabetes Mellitus.* Uncontrolled diabetes, ketoacidosis, or diabetic coma within the previous two years.

(2) *Obesity.* Obesity of such degree that it would interfere with the safe and effective performance of normal and emergency job duties.

(d) *Hematopoietic Dysfunction.* Clinically significant hematopoietic disorders which may interfere with the safe and effective performance of assigned job duties.

(e) *Malignant Neoplasms.* Malignant neoplastic disease.

(f) *Neurological.*

(1) History of epilepsy or other convulsive disorder.

(2) History of any disturbance of consciousness or neurological disease or any other presently existing condition that may interfere with the safe and effective performance of assigned job duties.

(g) *Mental and Emotional.* An established history or clinical diagnosis of any of the following:

(1) Any psychological or mental condition which could cause impaired alertness, judgment, or motor ability. A history of clinically significant emotional or behavioral problems shall require thorough clinical evaluation which may include, but not necessarily be limited to, psychological testing and psychiatric evaluation.

(2) Attempted suicide or an expressed threat of suicide.

(3) A condition in which a person's intake of alcohol is sufficient to damage his or her physical health, job performance, personal functioning, or when alcohol has become a prerequisite to his or her daily functioning.

(4) A condition in which a person is addicted to or dependent on drugs as evidenced by habitual use or a clear sense of need for the drug.

(5) The use of prescribed or otherwise legally obtainable medication taken in such a dosage that a temporary delay in taking such medication might result in unacceptable incapacity. For example, certain dosages or requirements for steroids, anticoagulants, antiarrhythmics, sedatives, tranquilizers, etc.

J. *Waiver of Security Officer Medical Standards.*

Waivers of elements of the medical standards of this appendix may be granted for certain otherwise disqualifying medical or

physical deficiencies by the cognizant field office management provided that:

(1) The DOE field organization authority, in consultation with a designated physician, determines that a certain medical or physical defect may be considered for waiver without compromising the intent of these medical standards to assure that all security officers are capable of safely and effectively performing all normal and emergency duties.

(2) The individual demonstrates by medical examination and/or practical test, as determined necessary by a designated physician, the ability to perform effectively and safely all routing and emergency duties.

(3) A statement of demonstrated ability must be prepared by a designated physician and must clearly (1) identify the individual, (2) state the nature and degree of the specific medical or physical defect, and (3) record the satisfactory medical evaluation and/or performance of the practical test required by a designated physician.

(4) Waivers shall be reviewed, revalidated, and reissued at intervals not to exceed two (2) years.

(5) Individuals who have been adversely affected by application of these medical standards may appeal the denial of waiver to the cognizant DOE safeguards and security field office for review within 60 days after the adverse action. Further evidence may be offered relating solely to the medical or physical fitness of the individual involved. Such individual may select a representative of his or her own choice to assist and appear in the individual's behalf in any appeal. After findings and a determination have been made at the field office level, such individual has a right to petition the Chief Health, Safety and Security Officer within 30 days of the field office's determination, for a final determination based upon his or her review of the record of the case.

[58 FR 45791, Aug. 31, 1993, as amended at 71 FR 68738, Nov. 28, 2006]

APPENDIX B TO SUBPART B OF PART 1046—TRAINING AND QUALIFICATION FOR SECURITY SKILLS AND KNOWLEDGE

A. *Applicability.* This appendix B to subpart B of part 1046 specifies performance oriented requirements for the security training and qualification of DOE contractor security officers and security police officers, including Special Response Team members.

B. *Training and Qualifications.*

(1) DOE contractors responsible for protective force personnel will establish formal qualification requirements to ensure the competencies needed by protective force members to perform the tasks required to fulfill their assigned responsibilities. The qualification requirements will be supported

by a formal training program which develops and maintains, in an effective and efficient manner, the knowledge, skills and abilities required to perform assigned tasks. The qualification and training programs will be based upon criteria established by the National Training Center and approved by the Chief Health, Safety and Security Officer, in coordination with program offices. The formal qualification and training program shall:

(a) Be based on a valid and complete set of job tasks, with identified levels of skills and knowledge needed to perform the tasks;

(b) Be aimed at achieving a well-defined, minimum level of competency required to perform each task acceptably;

(c) Employ standardized lesson plans with clear performance objectives as a basis for instruction;

(d) Include valid performance-based testing to determine and certify job readiness (i.e. qualification);

(e) Be documented so that individual and overall training status is easily accessible. Individual training records shall be retained until 1 year after termination of the employee as a member of the protective force, unless a longer retention period is specified by other requirements.

(2) DOE contractors responsible for training protective force personnel shall prepare and review annually a task analysis detailing all of the required actions for a specific job assignment. The task analysis shall be used to prepare a job description and as a basic input document for local training requirements and be approved by the Head of the Field Element.

(3) *Security Officers.*

(a) *Training requirements.* Prior to initial assignment to duty, each security officer shall successfully complete a basic training course designed to provide the minimum level of skills and knowledge needed to competently perform all tasks associated with security officer job responsibilities. The required tasks and minimum levels of competency shall be determined by a site-specific job analysis, but will include task areas found in paragraph (3)(c) of this appendix as appropriate. The training program will be approved by the Head of the Field Organization and where applicable will include, but not necessarily be limited to, the following types of instruction:

1. Orientation/standards of conduct;
2. Security education/operations and material control and accountability;
3. Safety training;
4. Legal requirements and responsibilities;
5. Weaponless self-defense;
6. Intermediate force weapons;
7. Communications;
8. Vehicle operations; and
9. Post and patrol operations.

(b) *Refresher Training.* Each security officer will successfully complete a course of refresher training at least every 12 months to maintain the minimum level of competency required for the successful performance of tasks associated with security officer job responsibilities. The type and intensity of training shall be based on a site-specific job analysis and will be approved by the Head of the Field Organization. Failure to achieve a minimum level of competency shall result in the security officer's placement in a remedial training program. The remedial training program will be tailored to provide the security officer with the necessary training to afford a reasonable opportunity to meet the level of competency required by the job analysis. Failure to demonstrate competency at the completion of the remedial program shall result in loss of security officer status.

(c) *Knowledge, Skills and Abilities.* Each security officer shall possess the skills necessary to protect DOE security interests from theft and other acts that may cause adverse impacts on national security or the health and safety of the public. The requirements for each security officer to demonstrate proficiency, familiarity, knowledge, skills, and abilities of the responsibilities identified in the job analysis include, but are not limited to:

1. Procedures for conducting physical checks of repositories containing classified matter;
2. Operation of all vehicles as required by duty assignment;
3. Site and facility policies and procedures governing the security officer's role in site protection;
4. Federal and state-granted authority applicable to assigned activities and relative responsibilities between the protective force and other law enforcement agencies;
5. Post or patrol operations including:
 - a. Access control systems, procedures and operation
 - b. Contraband detection
 - c. Search techniques for persons, packages and vehicles
 - d. Badging and escort responsibilities
 - e. Familiarity and recognition of various types of sensitive matter being protected including the normal location, routine uses, and movements of the material at the duty post
 - f. Incident reporting
 - g. Methods of weaponless self defense

(4) *Security Police Officers.*

(a) *Training requirements.* Prior to initial assignment to duty, each security police officer shall successfully complete a basic training course designed to provide the minimum level of skills and knowledge needed to competently perform all tasks associated with security police officer job responsibilities. The required tasks and minimum levels of competency will be based on a site-specific

job analysis, but will include task areas found in paragraph (4)(c) of this appendix as appropriate. The training program will be approved by the Head of the Field Organization and where applicable will include, but not necessarily be limited to, the following types of instruction:

1. Firearms training;
2. Orientation/standards of conduct;
3. Physical training;
4. Security education/operations and material control and accountability;
5. Safety training;
6. Legal requirements and responsibilities;
7. Tactical training;
8. Weaponless self-defense;
9. Intermediate force weapons;
10. Communications;
11. Vehicle operations; and
12. Post and patrol operations.

(b) *Refresher Training.* Each security police officer shall successfully complete a course of refresher training at least every 12 months to maintain the minimum level of competency required for the successful performance of tasks associated with security police officer job responsibilities. The type and intensity of training will be determined by a site-specific job analysis and will be approved by the Head of the Field Organization. Failure to achieve a minimum level of competency will result in the security police officer's placement in a remedial training program. The remedial training program will be tailored to provide the security police officer with the necessary training to afford a reasonable opportunity to meet the level of competency required by the job analysis. Failure to demonstrate competency at the completion of the remedial program shall result in loss of security police officer status.

(c) *Knowledge, Skills and Abilities.* Each security police officer shall possess the individual and team skills necessary to enable that security police officer to protect DOE security interests from theft, sabotage, and other acts that may cause adverse impacts on national security or the health and safety of the public and to protect life and property. The requirements for each security police officer to demonstrate proficiency, familiarity, knowledge, skills, and abilities of the responsibilities identified in the job analysis include, but are not limited to:

1. Knowledge and proficiency in the use and care of all weapons as required by duty assignment;
2. Operation of all vehicles as required by duty assignment;
3. Operation of all communication equipment as required by duty assignment;
4. Knowledge of and the ability to apply site and facility policies and procedures governing the security police officer's role in site protection;
5. Knowledge of Federal and state-granted authorities applicable to assigned activities

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and the relative responsibilities between the protective force and local law enforcement agencies in both normal and emergency operations.

6. Knowledge of and the ability to apply DOE policy on the use of deadly force and limited arrest authority as set forth in 10 CFR part 1047;

7. Proficiency in post and patrol operations including:

- a. Access control systems, procedures and operation
- b. Contraband detection
- c. Search techniques and systems for individuals, packages and vehicles
- d. Badging and escort responsibilities
- e. Response to and assessment of alarm annunciations and other indications of intrusion
- f. Familiarity and recognition of various types of sensitive matter being protected including the normal location, routine uses, and movements of the material at the assigned duty post
- g. Observation and physically checking buildings, rooms and repositories containing classified matter
- h. Incident reporting
- i. Response to civil disturbances (e.g., strikes, demonstrators)
- j. Methods of self-defense and of arrest and detention
- k. Basic procedures and elements of investigations
- l. Tactical skills

(5) *Special Response Team.*

(a) *Training requirements.* Prior to initial assignment to duties as a Special Response Team member, a security police officer shall successfully complete a basic training course designed to provide the minimum level of skills and knowledge needed to competently perform all tasks associated with Special Response Team job responsibilities. The required tasks and minimum levels of competency will be based on a site-specific job analysis, but will include the task areas identified for security police officers and specialized task areas found in paragraph (5)(c) of this appendix as appropriate. The training program will be approved by the Head of the Field Organization.

(b) *Refresher Training.* Each security police officer assigned as a Special Response Team member will successfully complete a course of refresher training at least every 12 months to maintain the minimum level of competency required for the successful performance of tasks associated with security police officer and Special Response Team job responsibilities. The type and intensity of training will be determined by a site-specific job analysis and will be approved by the Head of the Field Organization.

(c) *Knowledge, Skills and Abilities.* Special Response Team members will be security police officers with special training and shall

possess the individual and team skills to provide additional protection capability as demanded by the particular targets, threats and vulnerabilities existing at their assigned DOE facilities. In addition to security police officer requirements, the requirements for each Special Response Team member to demonstrate proficiency, familiarity, knowledge, skills, and abilities of the responsibilities identified in the job analysis include, but are not limited to:

1. Operate as a member of a mobile disciplined response team to engage and defeat adversaries as defined by the approved threat guidance for the facility.

2. Provide and operate special weapons and other equipment which may be necessary to protect a particular facility or to effectively engage an adversary with advanced capabilities.

3. Operate from special tactical vehicles which may be necessary for the protection of a particular facility.

(6) *Specialized Requirements.* Each person who is assigned specialized responsibilities outside the scope of normal security police officer and Special Response Team duties shall successfully complete the appropriate basic and required periodic training. This training will enable the individual to achieve and maintain the minimum level of skill and knowledge needed to competently perform the tasks associated with the specialized job responsibilities, as well as maintain mandated certification, if applicable. Such personnel include, but are not limited to, flight crews, instructors, armorers, Central Alarm System operators, crisis negotiators, investigators, canine handlers, and law enforcement specialists. The scope of such duties will be based on site-specific needs.

(7) *Supervisors.*

(a) *Training Requirements.* Protective force personnel who are assigned supervisory responsibilities shall successfully complete the appropriate basic and annual training necessary to achieve and maintain the minimum level of skill and knowledge needed to competently perform their supervisory job responsibilities. The required tasks and minimum levels of competency will be based on a site-specific job analysis and the specialized task areas found in paragraph (7)(b) of this appendix as appropriate.

(b) *Knowledge, Skills and Abilities.* Each supervisor shall possess the skills necessary to effectively direct the actions of assigned personnel to protect DOE security interests from theft and other acts that may cause adverse impacts on national security or the health and safety of the public. The requirements for each supervisor to demonstrate proficiency, familiarity, knowledge, skills, and abilities of the responsibilities identified in the job analysis include, but are not limited to:

1. Knowledge of the duties and qualifications of all supervised personnel;

2. Familiarity with the basic operating functions of facilities for which the supervisor has protection responsibilities;

3. Assurance that subordinates and their equipment are ready for duty at the start of each duty shift and the inspection of each duty post at least twice per shift, personally or by other means;

4. Assurance that all duty logs and reports have been properly completed, distributed, and acted upon.

(8) *Training Exercises.* Exercises of various types will be included in the training process for the purposes of achieving and maintaining skills and assessing individual and team competency levels. The types and frequency of training exercises are to be determined by the Head of the Field Organization or by the training needs analysis conducted as part of the training program. The training program will include as a minimum, the following:

(a) *General.* At least monthly, exercises shall be conducted involving each shift. These exercises are to be planned so as to exercise the protective force's ability to prevent the successful completion of those adversarial acts defined in the approved site-threat statement.

(b) *Special Response Teams.* Personnel assigned Special Response Team responsibilities shall participate in exercises at least monthly. Such exercises will involve the type of situations and scenarios appropriate to site-specific conditions.

(c) *Local Law Enforcement Agencies.* Protective forces shall request the FBI and local law enforcement agencies that would assist the protective force during an incident to participate in exercises at least annually.

(d) *Records* of each training exercise shall be prepared for management review and planning and retained for a period of 1 year, unless a longer retention period is specified by other requirements.

(9) *Firearms Qualification Standards.*

(a) No persons shall be authorized to carry a firearm as a security police officer until the responsible Head of the Field Organization is assured that the individual who is to be armed is qualified in accordance with firearms standards.

(b) As a minimum, each security police officer shall meet the applicable firearms qualification standards every 6 months. The local DOE field office shall permit the qualification to be accomplished any time prior to the actual 6 month requalification date. The actual qualification date will serve to establish a new requalification date for firearms qualification.

(c) The DOE expects that protective force personnel will maintain firearms proficiency on a continuing basis. Therefore, in the case of a headquarters or field audit, or other situation directed by the Head of the Field Ele-

ment, a security police officer may be required to demonstrate the ability to meet qualification standards. Failure to meet the performance standard will be treated as if the individual failed the first attempt during routine semiannual qualification. In this event the requirements of paragraphs (h), (i) and (j) of part 9 of appendix B subpart B will be followed.

(d) Each security police officer shall qualify with all weapons required by duty assignment. Each security police officer shall be required to qualify with each firearm as indicated in the DOE requirements of the DOE qualification courses.

(e) Each security police officer shall qualify with the same type of firearm and ammunition equivalent in trajectory and recoil as used while on duty. This ammunition shall be listed on the DOE approved ammunition list.

(f) Each security police officer shall be given a basic principles of firearms safety presentation prior to any range activity. This does not require that a firearms safety presentation be given for each course of fire, but does require that prior to the start of range training or qualification for a given period (e.g., initial qualification, semiannual (every 6 months) qualification, training or range practice) each security police officer shall be given a range safety presentation.

(g) Only courses of fire approved by the Chief Health, Safety and Security Officer as standardized DOE qualification courses, shall be used for firearms qualification.

(h) Security police officers shall be allowed two initial attempts to qualify semiannually. A Range Master or other person in charge of the range will state to security police officer(s) on the firing line that "THIS IS A QUALIFYING RUN." Once this statement is made by the Range Master or person in charge, "this qualifying run" will constitute a qualification attempt. Each security police officer will be provided two qualifying attempts. The security police officer shall qualify during one of these attempts.

(i) Failure to qualify shall result in suspension of a security police officer's authority under section 161.k. of the Atomic Energy Act of 1954, as amended, to carry firearms and to make arrests. The security police officer will then enter a standardized, remedial firearms training program developed by the National Training Center and approved by DOE. The remedial firearms training program will be a combination of basic weapon manipulation skills, firearms safety, and an additional segment of time tailored to provide the security police officer with the necessary individual training to afford a reasonable opportunity to meet the firearms qualification standards.

(j) Any security police officer who, upon completion of the remedial training course,

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fails to qualify after two subsequent, additional attempts shall lose the security police officer status and his authority to carry firearms and to make arrests under section 161.k. of the Atomic Energy Act of 1954.

(k) Any security police officer who requires remedial training on three (3) consecutive semiannual qualification periods, with the same firearm, shall lose security police officer status.

(l) An appropriate DOE record shall be maintained for each security police officer who qualifies or who attempts to qualify. Records will be retained until 1 year after separation of a protective force officer from security police officer duties, unless a longer retention period is specified by other requirements. A supervisor or the training officer will be designated in writing as the individual authorized to certify the validity of the scores.

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PART 1047—LIMITED ARREST AUTHORITY AND USE OF FORCE BY PROTECTIVE FORCE OFFICERS

GENERAL PROVISIONS

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AUTHORITY: Sec. 2201, Pub. L. 83-703, 68 Stat. 919 (42 U.S.C. 2011 et seq.); Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 et seq.).

SOURCE: 50 FR 30929, July 31, 1985, unless otherwise noted.

GENERAL PROVISIONS

§ 1047.1 Purpose.

The purpose of this part is to set forth Department of Energy (hereinafter “DOE”) policy and procedures on the exercise of arrest authority and use of force by protective force personnel.

§ 1047.2 Scope.

This part applies to DOE and DOE contractor protective force personnel armed pursuant to section 161.k. of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) to protect nuclear weap-

ons, special nuclear material, classified matter, nuclear facilities, and related property.

§ 1047.3 Definitions.

(a) *Act* means section 161.k. of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2201.k.).

(b) *Arrest* means any act, including taking, seizing or detaining of a person, that indicates an intention to take a person into custody and that subjects the person to the control of the person making the arrest.

(c) *Citizen’s Arrest* means that type of arrest which can be made by citizens in general and which is defined in the statutory and case law of each state.

(d) *Contractor* means contractors and subcontractors at all tiers.

(e) *LLEA* means local law enforcement agencies: city, county; and state.

(f) *Offender* means the person to be arrested.

(g) *Protective Force Officer* means any person authorized by DOE to carry firearms under section 161.k. of the Atomic Energy Act of 1954.

(h) *Special Nuclear Material* (SNM) means: (1) Plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which DOE, pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

§ 1047.4 Arrest authority.

(a) Under the Act, the authority of a DOE protective force officer to arrest without warrant is limited to the performance of official duties and should be exercised only in the enforcement of:

(1) The following laws only if property of the United States which is in the custody of the DOE or its contractors is involved:

(i) *Felonies*: (A) Arson—18 U.S.C. 81—(only applicable to “special maritime and territorial jurisdiction of the United States” as defined by 18 U.S.C. 7).

(B) Building or property within special maritime and territorial jurisdiction—18 U.S.C. 1363—(only applicable