

Department of Energy

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(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 DOE Director of Security Affairs.

(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 DOE Director of Security Affairs 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 DOE Director of Security Affairs' 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.

PART 1046—PHYSICAL PROTECTION OF SECURITY INTERESTS

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

APPENDIX B TO SUBPART B TO 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

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by the designated management supervisory official of the local DOE field office and authorized by the Medical Director, Office of Operational and Environmental Safety, Headquarters, 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 Medical 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.

Qualification 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 nu-

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clear 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.

§ 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.

(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