

§ 1047.6

§ 1047.6 Use of physical force when making an arrest.

(a) When a protective force officer has the right to make an arrest as discussed above, the protective force officer may use only that physical force which is reasonable and necessary to apprehend and arrest the offender; to prevent the escape of the offender; or to defend himself or herself or a third person from what the protective force officer believes to be the use or threat of imminent use of physical force by the offender. It should be noted that verbal abuse alone by the offender cannot be the basis under any circumstances for use of physical force by a protective force officer.

(b) Protective force officers shall consult the local DOE Office of Chief Counsel and contractor legal counsel, as appropriate, for additional guidance on use of physical force in making arrests.

§ 1047.7 Use of deadly force.

(a) Deadly force means that force which a reasonable person would consider likely to cause death or serious bodily harm. Its use may be justified only under conditions of extreme necessity, when all lesser means have failed or cannot reasonably be employed. A protective force officer is authorized to use deadly force only when one or more of the following circumstances exist:

(1) *Self-Defense*. When deadly force reasonably appears to be necessary to protect a protective force officer who reasonably believes himself or herself to be in imminent danger of death or serious bodily harm.

(2) *Serious offenses against persons*. When deadly force reasonably appears to be necessary to prevent the commission of a serious offense against a person(s) in circumstances presenting an imminent danger of death or serious bodily harm (e.g. sabotage of an occupied facility by explosives).

(3) *Nuclear weapons or nuclear explosive devices*. When deadly force reasonably appears to be necessary to prevent the theft, sabotage, or unauthorized control of a nuclear weapon or nuclear explosive device.

(4) *Special nuclear material*. When deadly force reasonably appears to be

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necessary to prevent the theft, sabotage, or unauthorized control of special nuclear material from an area of a fixed site or from a shipment where Category II or greater quantities are known or reasonably believed to be present.

(5) *Apprehension*. When deadly force reasonably appears to be necessary to apprehend or prevent the escape of a person reasonably believed to: (i) have committed an offense of the nature specified in paragraphs (a)(1) through (a)(4)¹ of this section; or (ii) be escaping by use of a weapon or explosive or who otherwise indicates that he or she poses a significant threat of death or serious bodily harm to the protective force officer or others unless apprehended without delay.

(b) *Additional Considerations Involving Firearms*. If it becomes necessary to use a firearm, the following precautions shall be observed:

(1) A warning, e.g. an order to halt, shall be given, if feasible, before a shot is fired.

(2) Warning shots shall not be fired.

PART 1048—TRESPASSING ON STRATEGIC PETROLEUM RESERVE FACILITIES AND OTHER PROPERTY

Sec.

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AUTHORITY: Sec. 662, Pub. L. No. 100-531, 102 Stat. 2652 (42 U.S.C. 7270b); section 6, Pub. L. No. 100-185, 101 Stat. 1280 (18 U.S.C. 3571(b)(5)).

SOURCE: 56 FR 1910, Jan. 17, 1991, unless otherwise noted.

§ 1048.1 Purpose.

The regulations in this part are issued for the protection and security of: (a) The Strategic Petroleum Reserve (SPR), its storage or related facilities, and real property subject to

¹These offenses are considered by the Department of Energy to pose a significant threat of death or serious bodily harm.