

Department of Energy

§ 1048.6

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.

1048.1 Purpose.

1048.2 Scope.

1048.3 Unauthorized entry.

1048.4 Unauthorized introduction of weapons or dangerous materials.

1048.5 Violations.

1048.6 Posting.

1048.7 Applicability of other laws.

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

the jurisdiction or administration, or in the custody of DOE under part B, title I of the Energy Policy and Conservation Act, *as amended* (42 U.S.C. 6231-6247) (EPCA); and (b) persons upon the SPR or other property subject to DOE jurisdiction under part B, title I of the EPCA.

§ 1048.2 Scope.

The regulations in this part apply to entry into or upon all SPR storage or related facilities, and real property subject to DOE jurisdiction or administration, or in its custody under part B, title I of the EPCA, which have been posted with a notice of the prohibitions and penalties contained in this part.

§ 1048.3 Unauthorized entry.

Unauthorized entry into or upon an SPR facility or real property subject to this part, without authorization, is prohibited.

§ 1048.4 Unauthorized introduction of weapons or dangerous materials.

Unauthorized carrying, transporting, introducing or causing to be introduced into or upon an SPR facility or real property subject to this part, of a dangerous weapon, explosive or other dangerous material likely to produce substantial injury or damage to persons or property, is prohibited.

§ 1048.5 Violations.

Willful unauthorized entry, or willful unauthorized introduction of weapons or dangerous materials into or upon real property subject to this part, constitutes a violation of these regulations. Violation of these regulations is a misdemeanor, and a person convicted of violating these regulations is subject to the maximum fine permitted by law, imprisonment for not more than one year, or both.

§ 1048.6 Posting.

Notices stating the pertinent prohibitions of §§ 1048.3 and 1048.4 and the penalties of § 1048.5 will be conspicuously posted at all entrances of each facility or parcel of real property subject to the regulations in this part, and at such intervals along the perimeters thereof as will provide reasonable assurance of notice to persons about to enter.

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