§ 8.5 Interpretation by the General Counsel of § 73.55 of this chapter; illumination and physical search requirements.

(a) A request has been received to interpret 10 CFR 73.55(c)(5) and 73.55(d)(1).

10 CFR 73.55(c)(5) provides:

Isolation zones and all exterior areas within the protected area shall be provided with illumination sufficient for the monitoring and observation requirements of paragraphs (c)(3), (c)(4), and (h)(4) of this section, but not less than 0.2 footcandle measured horizontally at ground level.

(b) The requester contends that the regulation is satisfied if 0.2 footcandle is provided only at the protected area boundary and the isolation zone. The language of the regulation is clearly to the contrary. It requires not less than 0.2 footcandle for “all exterior areas within the protected area.” This regulation helps effectuate the monitoring and observation requirements of 10 CFR 73.55. For example, 10 CFR 73.55(c)(4) states that “All exterior areas within the protected area shall be periodically checked to detect the presence of unauthorized persons, vehicles, or materials.” In the absence of illumination, such checking could not be fully effective.

(c) The requester also asks whether the illumination requirement extends to the tops and sides of buildings within the protected area. To effectuate the monitoring and observation requirements cited above, illumination must
be maintained for the tops and sides of all accessible structures within the protected area. This interpretation is consistent with that given by the Commission’s staff to affected licensees and applicants at a series of regional meetings held in March of 1977 and will be reflected in forthcoming revisions to NUREG 0220, Draft Interim Acceptance Criteria for a Physical Security Plan for Nuclear Power Plants (March 1977).

(d) 10 CFR 73.55(d)(1) provides in pertinent part: The search function for detection of firearms, explosives, and incendiary devices shall be conducted either by a physical search or by use of equipment capable of detecting such devices.

(e) The requester contends that until “equipment capable of detecting such devices” is in place, a licensee need not comply with the search requirement, but can utilize instead previous security programs. This contention is based on the first sentence of 10 CFR 73.55 which provides in pertinent part that the requirements of paragraph (d) of that section shall be met by May 25, 1977, “except for any requirement involving construction and installation of equipment not already in place expressed in (paragraph)(d)(1) * * *” Under this sentence only those requirements of paragraph (d) which involve “construction and installation of equipment” do not take effect on May 25, 1977. Because a “physical search” does not require “construction and installation of equipment”, implementation of such searches is required on May 25, 1977. The regulation provides alternative: “the search function * * * shall be conducted either by a physical search or by use of equipment * * *.” Thus when appropriate equipment is in place, the search function need not involve a physical search.

(f) The paragraphs above set forth interpretation of regulations; they do not apply those regulations to particular factual settings. For example, no effort is made to state what lighting system might be used for a given facility; all that is stated is that a system must provide not less than 0.2 footcandle for all exterior areas within the protected area. Similarly, no effort is made to define what is an adequate “physical search”; all that is stated is that, in the absence of appropriate equipment, such searches must begin on May 25, 1977.

[42 FR 33265, June 30, 1977]

PART 9—PUBLIC RECORDS

Sec.
9.1 Scope and purpose.
9.3 Definitions.
9.5 Interpretations.
9.6 Communications.
9.8 Information collection requirements: OMB approval.

Subpart A—Freedom of Information Act Regulations

9.11 Scope of subpart.
9.13 Definitions.
9.15 Availability of records.
9.17 Agency records exempt from public disclosure.
9.19 Segregation of exempt information and deletion of identifying details.
9.21 Publicly available records.
9.23 Requests for records.
9.25 Initial disclosure determination.
9.27 Form and content of responses.
9.28 Predisclosure notification procedures for information containing trade secrets or confidential commercial or financial information.
9.29 Appeal from initial determination.
9.31 Extension of time for response.
9.33 Search, review, and special service fees.
9.34 Assessment of interest and debt collection.
9.35 Duplication fees.
9.37 Fees for search and review of agency records by NRC personnel.
9.39 Search and duplication provided without charge.
9.40 Assessment of fees.
9.41 Requests for waiver or reduction of fees.
9.43 Processing of requests for a waiver or reduction of fees.
9.45 Annual report to the Attorney General of the United States.

Subpart B—Privacy Act Regulations

9.50 Scope of subpart.
9.51 Definitions.

PROCEDURES APPLICABLE TO REQUESTS BY INDIVIDUALS FOR INFORMATION, ACCESS OR AMENDMENT OF RECORDS MAINTAINED ABOUT THEM

PRESENTATION OF REQUESTS

9.52 Types of requests.
9.53 Requests; how and where presented.
9.54 Verification of identity of individuals making requests.