



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

November 28, 1977

Docket No. 50-270

TO ALL POWER REACTOR LICENSEES
AND ALL APPLICANTS WITH APPLICATIONS
FOR A LICENSE TO OPERATE A POWER REACTOR

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Gentlemen:

RE: AMENDMENT TO 10 CFR 73.55

This letter is being sent to all licensees authorized to operate a nuclear power reactor and to all applicants with applications for a license to operate a power reactor to advise you that the Nuclear Regulatory Commission has published in the FEDERAL REGISTER (Vol. 42, No. 189, September 29, 1977) an effective amendment to its regulation 10 CFR 73.55, "Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Industrial Sabotage." A copy of the FEDERAL REGISTER notice is enclosed. The amendment delays implementation of the physical search requirement of paragraph (d)(1) for regular employees of a licensee at the site at which the licensee is authorized to operate a nuclear power reactor until August 24, 1978 unless the Commission directs otherwise prior to that date.

In keeping with the above, the NRR staff position as to acceptable methods of implementing the attached effective rule has been changed. Guidance (dated September 30, 1977) for complying with the performance requirement of paragraph (d)(1) for searching of all individuals entering the protected area is enclosed. For any further information on the implementation of the search requirement, please contact James R. Miller, Assistant Director for Reactor Safeguards at 301-492-7014.

Sincerely,

Edson G. Case, Acting Director
Office of Nuclear Reactor Regulation

Enclosures:

1. Effective Rule
2. Position on Personnel
Search Requirements

cc: See next page(s)

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[7590-01]

Title 10—Energy
CHAPTER 1—NUCLEAR REGULATORY COMMISSION

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

Requirements for the Physical Protection of Nuclear Power Plants

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Effective rule.

SUMMARY: As a result of a number of objections raised with respect primarily to pat-down searches of licensee employees prior to admittance to the protected area of a nuclear power reactor, and the Commission's further consideration of the matter, the Nuclear Regulatory Commission is amending its regulations to delay implementation of the physical search requirement for regular employees of a licensee at nuclear power reactor sites.

EFFECTIVE DATE: September 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. R. J. Jones, Chief, Materials Protection Standards Branch, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301-443-6973).

SUPPLEMENTARY INFORMATION: On February 24, 1977, the Nuclear Regulatory Commission published in the *FEDERAL REGISTER* (42 FR 10836) effective amendments to 10 CFR Part 73, "Physical Protection of Plants and Materials." One requirement included in these amendments was to search individuals for firearms, explosives, and incendiary devices. The regulation specified that the search function would be conducted by a physical search or by use of equipment capable of detecting such devices. The requirements involving procedural measures were scheduled for implementation by May 25, 1977, and those involving use of equipment were scheduled for implementation by August 24, 1978, or earlier if the equipment were installed. Since equipment now available is not capable of detecting all types of explosives and incendiary devices, the search requirement calls for additional measures, such as random physical searches, to provide high assurance of protecting against industrial sabotage.

The Commission is reassessing the implications of physical "pat-down" searches of licensee employees and their value as a part of a total physical system considering their relation to other features of the security systems required by the new amendments. The issue is quite complex and involves ramifications of employee morale and the effectiveness of the search per se and in the context of the total security system. The Commission believes that the question of pat-down searches warrants more deliberate and thorough review, with extensive solicitation of public review and comments,

before the utility licensees are required to use such searches for their employees. The Commission, therefore, is amending its regulations to delay the implementation of physical searches of utility licensee employees until August 24, 1978, the date when implementation of all of the requirements of § 73.55 is required, to provide time for reexamination of the impact and value of such searches.

Public comment on the issue has been solicited in connection with a petition for rule making noticed in the *FEDERAL REGISTER* of September 15, 1977 (42 FR 46431; NRC docket PRM-73-2). The Commission has determined that this action is consistent with the common defense and security and protection of public health and safety. The Commission has further found that, in view of the opportunity for comment already afforded prior to publication of the rules on February 24, 1977, and the fact that the amendment set forth below serves to relieve a restriction, notice and public procedure on the amendment are unnecessary, and that the amendment may be made effective upon publication in the *FEDERAL REGISTER*.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 73 is published as a document subject to codification.

1. Section 73.55 of 10 CFR Part 73 is amended by adding the following sentences to the unnumbered prefatory paragraph:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against industrial sabotage.

... Except for individuals for whom the licensee has a well-grounded suspicion that such individuals are carrying firearms, explosives or incendiary devices, a licensee need not implement the physical search requirement of paragraph (d)(1) of this section for individuals who are regular employees of the licensee at the site at which the licensee is authorized to operate a nuclear power reactor pursuant to Part 50 of this Chapter until August 24, 1978, unless the Commission directs otherwise prior to that date. Until that date and pending its further review of this subject, the Commission has determined that the search requirement of paragraph (d)(1) of this section, implemented using only equipment capable of detecting firearms, explosives and incendiary devices, satisfies the performance requirements of this section as they apply to searches of regular employees of the licensee at the site entering the protected area of the nuclear power reactor.

Effective date: September 29, 1977.

(Sec. 1811, Pub. L. 83-703, 68 Stat. 948, Pub. L. 93-377, 88 Stat. 475; sec. 201, Pub. L. 93-438, 88 Stat. 1242-1243, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 2201, 5841)).

Dated at Washington, D.C., this 27th day of September 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 77-28901 Filed 9-28-77; 9:10 am]

[4910-14]

Title 46—Shipping
CHAPTER 1—COAST GUARD,
DEPARTMENT OF TRANSPORTATION
[CGD 77-128]

PART 25—REQUIREMENTS

PART 96—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

PART 195—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

International Regulations for Preventing Collisions at Sea, 1972; Corrections

AGENCY: Coast Guard, DOT.

ACTION: Correction to final rule.

SUMMARY: This document makes corrections to a docket which appeared in the *FEDERAL REGISTER* of July 11, 1977. The docket contains amendments updating existing references in Coast Guard regulations to the international rules for preventing collisions at sea and amendments interpreting section 3 of the Motor Boat Act of April 25, 1940.

EFFECTIVE DATE: September 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC-81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1477).

SUPPLEMENTARY INFORMATION: In FR Doc. 77-19344, appearing at page 35796 in the *FEDERAL REGISTER* of July 11, 1977, the following corrections are made:

1. On page 35796, third column, the ninth line of the first full paragraph is corrected to read, "1948, as amended. (With respect to navigation lights, the waters subject".

2. On page 35797, the sixth line of § 25.05-1, the sixth line of § 96.20-1, and the sixth line of § 195.20-1 should each be corrected to read "and shapes, whistles, bells."

Dated: September 22, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 77-28722 Filed 9-28-77; 8:45 am]

[4910-14]

[CGD 75-104]

PART 31—INSPECTION AND CERTIFICATION

Stability Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

NRR SUPPLEMENTAL STAFF POSITION
ON
PERSONNEL SEARCH REQUIREMENTS

September 30, 1977

The prefatory paragraph of 10 CFR 73.55 as amended September 29, 1977 states that the performance requirements of paragraph (d)(1) as they apply to searches of regular employees of the licensee at the site may be satisfied using only equipment capable of detecting firearms, explosives and incendiary devices. Acceptable metal detectors and explosive searching devices of the types currently available are deemed capable of detecting firearms, explosives and incendiary devices for regular employees of the licensee at the site. Such equipment, if not currently in operation, must be purchased and made operational as soon as possible if the licensee using this option is to be in compliance with the performance requirements of 10 CFR 73.55. A regular employee of a licensee is one who is a full time permanent employee whose permanent work station is at the site or those employees of the licensee who report regularly to the site (at least once per week) and includes employees of licensee contractors who are regularly employed at the site. All other personnel* are required by 10 CFR 73.55 (d)(1) to be searched at points of personnel access to the protected area. The following are acceptable methods for satisfying these requirements:

*All NRC employees are subject to the search requirements of 73.55 (d)(1). NRC resident inspectors will be searched in the same manner as regular employees of the licensee at the site. Other NRC personnel that have a government granted security clearance will be searched in the same manner as licensee employees who are not regularly employed at the site as long as (1) they can properly identify themselves; and (2) they have been previously identified by the Director of the Regional Office.

(a) A search program consisting of:

(1) processing all individuals through an acceptable metal detector, (2) processing all individuals through an explosives search device of the types currently available, (3) conducting a "hands-on" search of at least 5% (selected randomly) of all licensees employees who are not regularly employed at the site, (4) searching a regular employee at the site when the licensee has a well-grounded suspicion that the individual may be carrying firearms, explosives or incendiary devices, with a "hands-on" search, (5) conducting a "hands-on" search of all other individuals, and (6) subjecting all outer garments such as the coats or heavy sweaters of each individual who is not a regular employee at the site to the search requirements at the entry to the protected area. The process and procedures which select the individuals to be subjected to a "hands-on" search on a random basis must: (1) require the search to be conducted when the random selection process indicates, regardless of who the person to be searched is, and (2) ensure that an individual entering the search process area cannot know in advance if he or she will be selected for the "hands-on" search.

- (b) For those facilities which have only metal detectors installed and operable, the personnel search program for non-regular employees described in (a)(3) above is acceptable provided that the percentage of individuals randomly selected for "hands-on" search is increased to at least 10%. For those facilities which have only an explosives searching system in operation the "hands-on" search requirement of (c) below applies.

- (c) For those facilities which have neither metal detectors nor explosives searching devices installed and operable the personnel search program for non-regular employees described in (a)(3) above is acceptable provided that the percentage of individuals randomly selected for "hands-on" search is increased to at least 20%.

November 28, 1977

cc: Mr. William L. Porter
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