

A CMS Energy Company

Big Rock Point Nuclear Plant
10269 US-31 North
Charlevoix, MI 49720

Kurt M. Haas
General Manager

October 25, 2005

10 CFR 50.70(b)(1)

U.S. Nuclear Regulatory Commission
Document Control Desk
Washington, DC 20555-0001

DOCKETS 50-155 AND 72-043 - LICENSE DPR-6 - BIG ROCK POINT PLANT -
REQUEST FOR RELIEF OR EXEMPTION FROM 10CFR50.70(b)(1)

Big Rock Point has completed the transfer of all spent nuclear fuel, special nuclear material, and reactor-related Greater Than Class C (GTCC) waste to dry storage on an Independent Spent Fuel Storage Installation (ISFSI), and is in its final stages of decommissioning the former industrial area. As decommissioning progresses, infrastructure, such as office space, is being eliminated commensurate with the reduction in the number of personnel working at the site. Upon demolition of portable buildings, currently scheduled for completion not later than the end of the third quarter of 2006, onsite office space will be limited to a few offices in the ISFSI administrative building. At that time, it will no longer be practical for Big Rock Point to provide office space for the exclusive use of NRC inspection personnel. It is our intention to provide inspection personnel facilities adequate for the performance of their duties during their presence at Big Rock Point, with appropriate, convenient access in addition to visual and acoustic privacy.

Big Rock Point, therefore, requests exemption from the requirements of 10 CFR 50.70(b) (1) requiring licensees to, upon the request of the Director, Office of Nuclear Reactor Regulation (NRR), provide rent-free office spaces for the exclusive use of Commission inspection personnel.

Approval of this exemption request will avoid logistical and financial hardships associated with establishing and maintaining office space at the Big Rock Point ISFSI administration building for the exclusive use of NRC Inspection personnel.

Please contact Linda Castiglione, Licensing Lead, at 231-547-8365, if you have questions or require further clarification.



Kurt M. Haas
Site General Manager

Attachment I Request for Relief or Exemption from Certain Requirements of 10 CFR
Part 50 Relative to Providing Office Space for the Exclusive Use of
Commission Inspection Personnel.

cc: Administrator, Region III, USNRC
NRC Decommissioning Inspector - Big Rock Point
NRC NMSS Project Manager

NMSS01

Attachment I

**Consumers Energy
BIG ROCK POINT
Docket Numbers 50-155 and 72-043**

**Request for Relief or Exemption from Certain Requirements of 10 CFR Part 50 Relative
to Providing Office Space for the Exclusive Use of Commission Inspection Personnel**

October 25, 2005

4 Pages

Attachment I

Request for Relief or Exemption from Certain Requirements of 10 CFR Part 50 Relative to Providing Office Space for the Exclusive Use of Commission Inspection Personnel

October 25, 2005

I. REQUEST FOR RELIEF OR EXEMPTION

Big Rock Point (BRP) hereby requests relief or exemption from 10 CFR 50.70(b)(1) requiring BRP to provide office space for the exclusive use of Commission inspection personnel. 10 CFR 50.70(b)(1) states:

(b)(1) Each licensee and each holder of a construction permit shall upon request by the Director, Office of Nuclear Reactor Regulation, provide rent-free office space for the exclusive use of the Commission inspection personnel. Heat, air conditioning, light, electrical outlets and janitorial services shall be furnished by each licensee and each holder of a construction permit. The office shall be convenient to and have full access to the facility and shall provide the inspector both visual and acoustic privacy.

As a preferred approach, BRP requests that the Director, NRR explicitly withdraw the request for exclusive use of licensee office space in order to provide relief of the provisions of 10 CFR 50.570(b)(1).¹

Alternately, BRP requests exemption from the exclusive use provision of 10 CFR 50.70(b)(1). Office space for transient NRC personnel, including heat, air conditioning, light, electrical outlets, and janitorial services will, commensurate with other ISFSI Administrative Offices or portable trailer offices on site continue to be provided on an as-needed basis in order that NRC personnel may have appropriate facilities for the conduct of inspection activities.

II. BACKGROUND

10 CFR 50.70 was amended in 1979 (44 FR 47918) in order to facilitate implementation of a resident inspection program at selected sites. As part of the new inspection program, full-time resident inspectors were placed on site at selected nuclear power reactor sites under construction or in operation, and at selected fuel cycle facilities where reactor fuel is fabricated or processed. The rulemaking implementing the resident inspector program included provisions for on-site, rent-free, exclusive office space in order to accommodate a full-time inspector and support staff. As an operating nuclear power reactor, a full-time resident inspector was assigned to the BRP site and appropriate accommodations were provided, presumably upon request of the Director, NRR.

¹ If it exists, BRP has been unable to locate the original request under 10 CFR 50.70(b)(1) from the then director, NRR.

Attachment I

Request for Relief or Exemption from Certain Requirements of 10 CFR Part 50 Relative to Providing Office Space for the Exclusive Use of Commission Inspection Personnel

October 25, 2005

On September 23, 1997, Consumers Energy notified the NRC of the permanent cessation of operations and the permanent removal of all fuel assemblies from the reactor pressure vessel pursuant to 10 CFR 50.82(a)(1)(i) and (ii). With this submittal, BRP was no longer authorized to operate the reactor or place fuel in the reactor vessel. Upon transition from an operating facility to a permanently shut down facility, the NRC reevaluated inspection resources and, in 1999 eliminated the BRP resident inspector position in favor of region-based inspectors. Although the space is utilized less than 25% of the time, BRP has continued to provide dedicated office space for regional and headquarters inspectors throughout the course of decommissioning. Once decommissioning of the former industrial area is completed next year, we expect on-site inspector presence to be even further reduced.

BRP has completed the transfer of all spent nuclear fuel, special nuclear material, and reactor-related Greater Than Class C (GTCC) waste to an Independent Spent Fuel Storage Installation (ISFSI), and is in the final stages of decommissioning. As decommissioning progresses, infrastructure, such as office space, is being eliminated commensurate with the reduction in the number of personnel working on the site. Upon removal of portable office trailers, currently scheduled for completion not later than the end of the third quarter of 2006, onsite office space will be limited to a few offices in the ISFSI administrative building. At that time, it will no longer be practical for BRP to provide office space for the exclusive use of NRC Inspection personnel. ISFSI administrative building office space is limited and fully occupied by ISFSI Security, operations, and support staff. Once portable trailers are removed, office space with appropriate, convenient access in addition to visual and acoustic privacy shall be provided, but will not be dedicated for exclusive use by the NRC.

III. JUSTIFICATION FOR GRANTING THE RELIEF OR EXEMPTION REQUEST

The specific requirements for granting exemptions to 10 CFR Part 50 licensing requirements are set forth in 10 CFR 50.12. Code section 50.12 of 10 CFR, "Specific exemptions," reads, "The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are ... authorized by law, will not present undue risk to the public health and safety, and are consistent with the common defense and security." The basis for relief or exemption is presented below.

- A. The requested relief or exemption is authorized by law. The regulations cited in this request are contained in Part 50 of the Nuclear Regulatory Commission's regulations. The request involves only relief from the Director, NRR's request for exclusive office space or exemption from 10 CFR 50.70(b)(1).

Attachment I

Request for Relief or Exemption from Certain Requirements of 10 CFR Part 50 Relative to Providing Office Space for the Exclusive Use of Commission Inspection Personnel

October 25, 2005

- B. The requested relief or exemption will not present undue risk to public health and safety. Appropriate support facilities for NRC inspection personnel will be provided so that they may properly and efficiently execute their safety oversight function. The absence of exclusive use office space will not impede inspection personnel in the performance of their duties.
- C. The requested relief or exemption is consistent with providing for the common defense and security. Nothing in this request will result in any decrease in the effectiveness of security or safeguards related to the safe storage of radioactive material at the BRP Site.
- D. Application of the requirements of 10 CFR 50.70(b)(1) at a site in the final stages of decommissioning and continuing through long term operation of a dry fuel storage facility will not serve the underlying purpose of the rule. 10 CFR 50.70(b)(1) was developed to facilitate a resident inspection program at operating nuclear power plants, and was never envisioned to apply to the decommissioning phase of those plants. The resident inspection program, with its attendant needs for full-time office space for inspection and support staff, is not applicable to the particular circumstances of the BRP decommissioning and ISFSI operation.
- E. Compliance with the Director, NRR's request and consequent requirements of 10 CFR 50.70(b)(1) will result in costs that are in excess of those contemplated when the regulation was adopted. Establishment and maintenance of exclusive use office space for NRC inspection personnel will result in expenditure of funds for the implementation of a requirement that was not contemplated to apply to the decommissioning phase of a nuclear power plant, when associated safety risks and NRC oversight resources has been significantly reduced.

Attachment I

Request for Relief or Exemption from Certain Requirements of 10 CFR Part 50 Relative to Providing Office Space for the Exclusive Use of Commission Inspection Personnel

October 25, 2005

IV. CONCLUSION

Big Rock Point concludes that the requested relief or exemption from the requirement of 10 CFR 50.70(b)(1) to provide exclusive office space for NRC inspection personnel is justified. The requested exemption meets the specific exemptions requirements of 10 CFR 50.12. The relief or exemption is authorized by law, will not present undue risk to public health and safety and is consistent with providing for the common defense and security. Application of the requirements of 10 CFR 50.70(b)(1) to BRP decommissioning and ISFSI operation will not serve the underlying purpose of the rule and will result in costs that are significantly in excess of those contemplated when the regulation was adopted.

BRP will continue to provide NRC inspection personnel with facilities adequate for the performance of their duties during their stay at BRP, with appropriate, convenient access to the facility in addition to visual and acoustic privacy.

V. ENVIRONMENTAL IMPACT

Pursuant to 10 CFR 50.12, Big Rock Point is requesting relief or exemption from certain requirements of NRC regulations in 10 CFR 50.70(b)(1). The proposed exemption does not affect the type or quantity of radioactive or non-radioactive effluents entering the environment and does not have an adverse impact on the environment.