

Six miscellaneous comments were received which addressed the following areas: a lack of a value-impact statement; objection to the resident inspection program; the need for competent, carefully chosen and trained personnel to fill resident inspection positions; a suggestion for a three-person inspection team at each site; a concern over protection of proprietary information; and that access provided for inspectors offends the Fourth Amendment prohibition against unreasonable searches and seizures.

A summary of these comments is attached as Enclosure A. The responses to the three principal concerns are discussed below:

1. In response to the concerns over having to provide rent-free space, ELD reexamined the legal basis and concluded that the original opinion expressed in SECY-78-159 remained valid. That original opinion stated that the requirement that licensees provide office space is not unconstitutional or otherwise illegal, and is within the Commission's regulatory authority.

A change to the fee schedule is not warranted because the requirements to provide space for resident inspectors are in essence no different than other requirements requiring expenditure of resources to further the public health and safety.

2. As a result of the concerns that space requirements were excessive, that section of the proposed rule change has been rewritten to require space commensurate with other office facilities at the site. A square footage statement is included only as guidance. The acceptance of the office space is in the authority of the Director, Office of Inspection and Enforcement.
3. The provision for access by inspectors likely to conduct inspections at a specific facility has been reworded in accordance with the recommendations of respondents to emphasize that the unfettered access will be equivalent to that provided to plant employees. While we agree that the inspectors who have the equivalent access may serve as escort for other

inspectors or NRC personnel at the site, we do not feel that this provision need be stated in more detail. It is not our desire that the resident inspector be burdened with escort duties. NRC part-time secretarial help will be subject to NRC security check and will not require access to vital areas.

The responses to the six miscellaneous concerns are discussed below:

1. The comments regarding a value-impact statement are considered to have been satisfied by the presentation of SECY-77-138A (May 3, 1977) which formed the basis for the decision to implement a program of resident inspectors.
2. Commenters who objected generally to the institution of the resident inspection program asserted that the program would unnecessarily consume the working time of licensees' personnel and unduly burden or disrupt operations but would not improve the inspection program or provide better protection of public health and safety. Many of the same concerns were raised when the NRC decided to implement a resident inspection program and were discussed in SECY-77-138A. The staff remains convinced that implementation of the resident inspection program will enhance the NRC's inspection capabilities without undue interference in licensees' operations.
3. Several comments emphasized the need for competent, carefully chosen and trained personnel to fill resident inspector positions. Existing NRC practices ensure that resident inspectors are properly qualified for their positions and have undergone the requisite training and security clearance. However, the NRC does not deem it appropriate, as one commenter suggested, to allow licensees to inspect the personal history and security investigation of individual inspectors.
4. One commenter suggested the use of a three-person inspection team at each site to effectively implement the resident inspector program.

The NRC will consider this and other suggestions to improve the efficiency of the program and will continuously monitor the program and make changes in its implementation as may be necessary.

The State of Rhode Island favored the resident inspector program, stating that the program would aid state authorities in the conduct of their responsibilities and improve communication with the NRC.

5. One commenter stated that inspectors should be allowed only limited access to licensee's operations involving proprietary information. The NRC finds such restriction inappropriate. Federal employees are required by law to preserve the confidentiality of proprietary information. Moreover, all inspection reports including those generated by resident inspectors are reviewed for proprietary information prior to public release.
6. One commenter suggested that the access provided the resident inspector and other NRC inspectors offends the Fourth Amendment prohibition against unreasonable searches and seizures and constitutes a warrantless search similar to that struck down by the Supreme Court in Marshall vs. Barlow's, Inc., 436 U.S. 307 (1978). The commenter fails to recognize that all licensees and permit holders have consented in advance to lawful inspections under 10 CFR 50.70 and 70.55. Moreover, the Barlow's, Inc. case is not applicable to NRC inspections, because such inspections fall within the exception for "pervasively regulated businesses" that the Court identified in Barlow's, Inc.

Wording changes have been made to incorporate editorial comments and to clarify the proposed regulation.

The proposed rule revised in accordance with the above discussion is provided in Enclosure B.

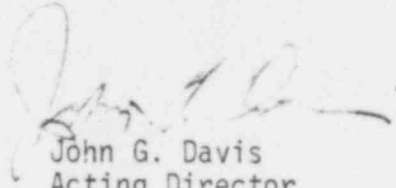
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Recommendation: That the Commission:

1. Approve publication in the Federal Register the amendments to 10 CFR 50 and 70 as set forth in Enclosure B.
2. Note:
 - a. No environmental impact statement concerning this rule making action is required because the Amendments do not constitute a major federal action significantly affecting the quality of the human environment, as stated in Commission paper SECY-75-113.
 - b. No separate value impact statement concerning this rule making action is included since the decision to implement a program of resident inspection (SECY-77-138A) required that the inspector be on site full time. In addition, the proposed regulation only clarifies and implements authority which is provided by the Atomic Energy Act of 1954, as amended, and by the Energy Reorganization Act of 1974, as amended.
 - c. A public announcement such as that shown in Enclosure "C", will be issued when the notice is filed with the Office of the Federal Register.

Coordination: The Offices of Nuclear Materials Safety and Safeguards, Nuclear Reactor Regulation, State Programs and Standards Development concur in the recommendations of this paper. The five OPE comments are responded to in Enclosure D. Two were suggested wording changes to improve effectiveness of the rule. One was advice to the staff on future actions on access. The fourth was a suggestion for added explanation of wording changes from the proposed rule. The fifth suggestion was to change the title for consistency

with the rule. The Office of the Executive Legal Director has no legal objection. The public announcement was prepared by the Office of Public Affairs.



John G. Davis
Acting Director
Office of Inspection
and Enforcement

Enclosures:

- A. Summary Comments
- B. Revised Proposed Rule
- C. Public Announcement
- D. Response to OPE Comments

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Thursday, May 24, 1979.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT May 18, 1979, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an Open Meeting during the Week of June 4, 1979. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

DISTRIBUTION

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POOR ORIGINAL

RESPONDENT/DATE	NRC PAY COSTS	SPACE EXCESSIVE	ACCESS CONCERNS	SECURITY CONCERNS	RECOMMENDATIONS - COMMENTS
1. Evan Morgan (Taxpayer) 5/11/78		No office space is available - space is excessive. If trailer is used, special sanitary facilities are never provided for average person. Rejects the argument that agencies & departments of the Federal Government force those regulated to provide office space.	Inspectors have immediate access now, so does not improve it.		Level of inspection is unnecessary. Objects to an unlimited number of inspectors. Objects to an unlimited number of offices.
2. Raymond G. Carroll Health Physicist 5/31/78					Suggest change to Part 19 for non-NRC personnel.
3. James P. Hogan General Atomics 5/26/78					Requested additional information (Provided by telecon ELJordan 6/16)
4. Conner, Moore & Corber (Mark Wetterhahn) 6/23/78	As credit against license fees	Requests burdensome on plants already constructed		Governed by same industrial security requirements as plant employees consistent with Commission's requirements. Proposed rewording of 50.70(b)(3).	Quotes 415US345,350 (1947) and 295US555,601 (1935) on prohibited appropriation of property. Proposed rewording of 50.70(b)(3)
Rochester Gas & Electric (John E. Arthur) 6/23/78		Costly & burdensome. Suggest qualitative requirement to accommodate facility diversity proposed or an alternate is a guideline. Misunderstood that exclusive janitorial service is required.	Suggest rewriting 50.70(b)(iii) w/re like supplemental information. Suggests access should not be necessary if licensee personnel necessary to respond to inspectors specific purpose are not available.		Proposed rewording of 50.70(b)(ii). Proposed rewording of 50.70(b)(iii).

Enclosure A

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POOR ORIGINAL

RESPONDENT/DATE	NRC PAY COSTS	SPACE EXCESSIVE	ACCESS CONCERNS	SECURITY CONCERNS	RECOMMENDATIONS - COMMENTS
6. Florida Power & Light (Robert E. Uhrig) 6/22/78	Unconstitutional according to 5th Amendment ("nor shall private property be taken for public use, without just compensation"). Improper fee.	Arbitrary to impose requirement that site office size meet a particular minimum size requirement. Burdensome.	- Offends 4th Amendment prohibition against unreasonable searches and seizures.		Quotes 415US336 (1974) Quotes 46USLW 4483 (5/23/78) and 387US523, 528-29 (1967) and 387US541, 543 (1967) and 406US311, 316 (1972) and 397US72, 77 (1970). Also 413, US266, 271 (1973). Dispensing with Section 50.70(b) and rewording. 50.70 provide space when required.
7. Niagara Mohawk Power Corporation (Donald P. Dise) 6/23/78		Is in conflict with Niagara Mohawk Corporate Office Space Standard - should not specify amount of space.			
8. John W. Cure, III Certified in Health Physics 196? 6/21/78					Objects to permanent stationing of inspectors at power reactor site - will not increase safety but will increase cost of generation of electricity.
9. Commonwealth Edison (Cordell Reed) 6/23/78		Exceeds (in many cases) the space provided to department heads. If minimum space requirement must be included, 140 sq. ft. is recommended - space should not be multiple of one inspector.			Proposed rewording of 50.70 (b)(2)(i) and (ii). NRC be responsible for action of part-time secretary.

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POOR ORIGINAL

RESPONDENT/DATE	NRC PAY COSTS	SPACE EXCESSIVE	ACCESS CONCERNS	SECURITY CONCERNS	RECOMMENDATIONS - COMMENTS
10. Wisconsin Electric Power Company (Sol Burstein) 6/23/78	Training of inspectors not to be a burden on licensees. Initial costs in providing space & facilities for inspectors should be borne by NRC.	Oppose required office space. Proposed minimum space requirement is superior to plant personnel which is unacceptable.	Resident inspectors could be treated like employees in regard to access but do not regard as appropriate providing "NRC the carte blanche" right to designate any number of personnel the right to immediate & unlimited access. Use resident inspectors to escort other NRC personnel instead of utility personnel.	Licensees should be allowed to inspect PSQ and BI of inspectors to assure consistency with licensee's security requirements.	Exercise extreme care in selecting resident inspectors and provide for frequent and detailed review of activities through regional & HQ's IE.
11. Environment Coalition on Nuclear Power (Wm. A. Lohstet) 6/21/78					Rule should be implemented as proposed. Consideration of using 3-person team for each site. Inspectors should have authority to shutdown plant if a safety problem.
12. Public Service Co. of Indiana, Inc. (Charles W. Campbell) 6/23/78		Amend to allow more flexibility & that minimum space & privacy requirements be equivalent of that which licensee or permittee furnishes to its own personnel. Provisions requiring trailers equipped with sanitary facilities might create problems during early stages of construction.		NRC pay for expenses related to inspector acquiring necessary security clearances.	Provisions in Supplementary Information stating NRC personnel will be required to complete site-specified radiological safety & security training for safety & that they will conform to all facility safety & security requirements be included in proposed amended regulations.

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RESPONDENT/DATE	NRC PAY COSTS	SPACE EXCESSIVE	ACCESS CONCERNS	SECURITY CONCERNS	RECOMMENDATIONS - COMMENTS
13. United Nuclear Corp. (W. J. Kirk) 6/19/78	Expect cost recovery from agencies in regards to added costs of a resident inspection program. Decreased or eliminated NRC inspector fees.	250 sq. ft. is excessive. Suggest 1/2 to 1/3 the size.	Inspector may not have free, unescorted access because of proprietary information.		Resident inspector program consumes utility's personnel time.
14. Baltimore Gas & Electric Company (Arthur E. Lundvall, Jr.) 6/19/78 561 327	NRC should pay for any expenses incurred by the company.	No space presently available.			Resident inspectors would be duplicative of Quality Assurance Department - may be hard to justify large force. Does not result in significant increase direct inspection observation. Does not provide greater NRC inspector availability in event of incident. Does not facilitate unannounced inspections. No benefits from the resident inspection program.
15. Berlack, Israels & Liberman 6/21/78	Suggests NRC may have to bear costs under criteria established in <u>New England Power Co.</u> , FPC, 415 U.S. 345 (1974).	Same as Wisconsin Electric Power Company			
16. Union Electric Company (Joseph E. Birk) 6/20/78	Would have to make physical changes so feel NRC should reimburse them for expenses incurred. More flexibility required.		Resident inspector(s) should act as escort for other visiting NRC personnel.		

POOR ORIGINAL

RESPONDENT/DATE	NRC PAY COSTS	SPACE EXCESSIVE	ACCESS CONCERNS	SECURITY CONCERNS	RECOMMENDATIONS - COMMENTS
17. Carolina Power & Light Company (E. E. Utley) 6/22/78	Annual inspection fees reflect the annual rent charged to the Commission for office space.	Financial burden on licensees. If 250 sq. ft. is required why additional 50 ft. for out-of-the-office trailer. Specificity is required for the term "any necessary emergency alarms" in the trailer. Guidance should be given for the acceptable space.			Last sentence of paragraph 50.70(b)(3) is unnecessary requirement and contradictory to other requirements in 50.70(b)(3).
18. Shaw, Pittman, Potts & Trowbridge 6/23/78		Same as Wisconsin Electric Power Company			
19. Omaha Public Power Dist. (T. E. Short) 6/22/78		Space unrealistic. Mgr has less space at Ft. Calhoun.			
20. State of Rhode Island & Providence Plantations (Dante G. Ionata) 6/26/78					Strongly endorses the amendment.
21. Yankee Atomic Electric (W. P. Johnson) 6/26/78		250 sq. ft. greater than any space at Yankee R. Land is not readily available for trailer space. Space may be outside the protected area.	Same as regular plant employee by permission only for access to security vital areas.	Part-time secretarial help must meet screening of employees in protected area.	Resident inspector should escort other NRC inspectors.
22. Nixon, Hargrave, Devins & Doyle (Scott M. Turner) 6/26/78 See also 5					Transmit RG&E Letter

POOR ORIGINAL

RESPONDENT/DATE	NRC PAY COSTS	SPACE EXCESSIVE	ACCESS CONCERNS	SECURITY CONCERNS	RECOMMENDATIONS - COMMENTS
23. Georgia Power Company (Chas. F. Whitmer) 6/23/78		Same as Wisconsin Electric Power Company			
24. General Atomics (James P. Hogan) 6/29/78 See also 3	Legal argument provided to state that free accommodations should not be expected - like quartering troops!	Space excessive	Inconsistent with 2-man rule. Should clarify inspector's authority. Potential danger if uncontrolled and unescorted access is pushed too far. No basis for providing greater access than currently provided.		Should establish objective criteria for determining need for full time inspectors. Should eliminate implication that inspector may demand access to portion operable w/o license.
25. Westinghouse Electric Nuclear Fuel Div. (W. J. Dollard) 6/28/78	Unwarranted and unnecessary burden. Tantalum to charging a fee for inspection				Legally questionable. Unreasonable extension requiring authorization by Congress. No evidence of a value impact statement - should be made available to public for comment. Affords no greater protection.
26. Offshore Power Systems (R. B. Stermon) 6/29/78	Disagree with rent free space - unanticipated cost can't be passed.	Professional engineering get 150 square feet.	May be disruptive of manufacturing work.		Not compatible with AI study. Disruptive of work. Does the rule apply to the manufacturer of a floating nuclear plant? Training would not be given inspector in the area of radiography since such work is done under agreement state license.

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ENCLOSURE B

ENCLOSURE "B"
[10 CFR Parts 50 and 70]
Licensing of Production and Utilization Facilities
Special Nuclear Material
Facilities and Access For Resident Inspection

AGENCY: U. S. Nuclear Regulatory Commission

ACTION: Final Rule

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require power reactor licensees and construction permit holders and selected fuel facility licensees to provide (1) on site, rent-free, exclusive use office space and (2) immediate licensee facility access to Commission inspection personnel. The rule is needed in order to facilitate implementation of a revised inspection program which was initiated in mid-1978. As a part of the revised program, the Commission is placing resident inspectors on site at selected nuclear power reactor construction sites, at selected power reactor sites in test and routine operations and at selected fuel facilities to observe and review licensee construction, operations, radiological safety, safeguards and environmental protection activities.

FOR FURTHER INFORMATION CONTACT: Mr. Edward L. Jordan, Assistant Director for Technical Programs, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Phone No. 301-492-8180.

SUPPLEMENTARY INFORMATION: On May 9, 1978, the Nuclear Regulatory Commission published in the Federal Register (43 FR 19860) a proposed amendment to its regulations, 10 CFR 50 Licensing of Production and Utilization Facilities and Part 70 Special Nuclear Material, which would implement authority of Section 161(o) of the Atomic Energy Act of 1954, as amended, and of the Energy Reorganization Act of 1974, as amended, in order to facilitate the on site resident inspection portion of its revised inspection program.

Interested persons were invited to submit written comments for consideration in connection with the proposed amendment by June 23, 1978. The comments which were received addressed three principal concerns: licensees should not be forced to provide rent-free space; the proposed space requirement was excessive and arbitrary; and inspector access provisions should be the same as for a regular plant employee.

In mid-1978, the Commission initiated a revised inspection program which includes the use of on site resident inspectors. Pursuant to Section 161(o) of the Atomic Energy Act of 1954, as amended, the Commission intends to place NRC resident inspectors on site at selected nuclear

Enclosure B

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power reactor construction sites and at selected power reactor sites in test and in routine operation. Eventually the Commission expects to place full-time resident inspectors at all operating power reactors, at power reactors in later stages of construction and at selected fuel cycle facilities where nuclear reactor fuel is fabricated or processed. The resident inspector will observe and review licensee operations, construction safety, safeguards and environmental protection activities to determine whether they are adequate, conducted properly and at the required frequency. Other regionally or headquarters based NRC personnel will continue to provide technical support and management review as required for the inspection program.

In order to facilitate the performance of the resident inspection program it is necessary that office space be provided to selected Commission personnel. The regulation as adopted requires that the licensee provide on site, rent-free, exclusive office space upon the request of the Director, Office of Inspection and Enforcement. This requirement is not unique in that other Federal departments and agencies have continuous inspection programs that require those subject to their regulations to furnish appropriate facilities to the inspectors.

Sufficient space is required in order to accommodate a full-time inspector, a part-time secretary and transient NRC personnel. The suggested space is 250 square feet but the rule does not specify an exact area. The space provided is expected to be commensurate with space normally provided to licensee employees. For sites with more than one power reactor unit or fuel facility it may be necessary to assign more than one resident inspector. If additional resident inspectors are assigned to a site, additional space will be requested.

In order to assure that the resident inspector or regionally based inspectors are afforded the opportunity to conduct unfettered reviews of work in progress it is necessary and the regulation requires, that properly identified inspectors be provided immediate access to the facility (the same as regular licensee employees). The inspectors afforded such access will be provided by the licensee that site-specific radiological safety and security information necessary for their safety, security, and radiological protection and will conform to all facility safety and security requirements.

A briefing on site-specific radiological protection practices, security and emergency response actions is appropriate and sufficient for unescorted access to other than vital areas, radiation areas and areas contaminated with radioactive material, for those NRC personnel who infrequently visit a site.

As a result of the comments on the proposed rule the Commission reexamined the legal basis for the requirement that licensees provide office space and determined that the requirement is neither an arbitrary use of the Commission's regulatory power nor an unreasonable burden on the licensee.

As a result of the concerns expressed in the comments over excessive space requirements, the Commission has changed the proposed area requirement to guidance, with the condition that the space provided shall be commensurate with other office facilities at the site. Acceptability of the space is in the authority of the Director, Office of Inspection and Enforcement.

As a result of comments on the proposed rule, the provision for access by inspectors likely to conduct inspections at a specific facility has been reworded to emphasize that unfettered access for inspectors who are likely to inspect a specific facility, will be equivalent to that for a regular plant employee. Inspectors likely to inspect are those who are expected to conduct several inspections at the specific facility during a given year.

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 amendments to Title 10, Chapter 1, Code of Federal Regulations, Parts 50 and 70 are published as a document subject to codification.

Sections 50.70 and 70.55 are amended as follows:

1. In § 50.70 of 10 CFR Part 50, an "(a)" is added preceding the present paragraph and paragraph (b) is added as follows:

* * *

(b)(i) Each licensee and each holder of a construction permit shall upon request by the Director, Office of Inspection and Enforcement, provide rent-free office space ~~including heat, air conditioning, light, electrical outlets and janitorial service~~ 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.

(ii) For a site with a single power reactor or fuel facility licensed pursuant to Part 50, the space provided shall (1) be within that site's office complex and be a minimum of 250 square feet, or (2) be an office trailer or module or equivalent located separate from that site's office complex but on-site and be a minimum of 300 square feet.

If (2) above is chosen, then in addition to the above required utilities, such space shall be equipped with sanitary facilities and any necessary emergency alarms. be adequate to accommodate a full-time inspector, a part-time secretary and transient NRC personnel and will be generally commensurate with other office facilities at the site. A space of 250 square feet either within the site's office complex or in an office trailer or other on site space is suggested as a guide. For sites containing more than one power reactor unit or fuel facility, any additional space required shall be specified in the request for space and for each additional inspector required, shall not exceed the minimum space dimensions provided for the initial inspector. For sites containing multiple power reactor units or fuel facilities, additional space may be requested to accommodate additional full-time inspector(s). The office space that is provided shall be subject to the approval of the Director, Office of Inspection and Enforcement. All furniture, supplies and communication equipment will be furnished by the Commission.

(iii) The licensee or construction permit holder shall afford any NRC resident inspector assigned to that site, or other NRC inspectors identified by the Regional Director as likely to inspect the facility, immediate unfettered access, equivalent to access provided regular plant employees, following proper identification and compliance with applicable access control measures. Access may be limited only to the extent required for the inspector's safety for security, radiological protection and personal safety.

2. In § 70.55 10 CFR Part 70, paragraph (c) is added as follows:

(c)(i) In the case of fuel cycle facilities where nuclear reactor fuel is fabricated or processed each licensee shall upon request by the Director, Office of Inspection and Enforcement, provide rent-free office space including heat, air conditioning, light, electrical outlets and janitorial service for the exclusive use of Commission inspection personnel. Heat, air conditioning, light, electrical outlets and janitorial services shall be furnished by each licensee. The office shall be convenient to and have full access to the facility and, shall provide the inspector both visual and acoustic privacy.

(ii) For a site with a single fuel facility licensed pursuant to Part 70, the space provided shall (1) be within that site's office complex and be a minimum of 250 square feet, or (2) be an office trailer or module or equivalent located separate from that site's office complex but on-site and be minimum of 300 square feet. If (2) above is chosen, then in addition to the above required utilities, such space shall be equipped with sanitary facilities and any necessary emergency alarms be adequate to accommodate a full-time inspector, a part-time secretary and transient NRC personnel and will be generally commensurate with other office facilities at the site. A space of 250 square feet

either within the site's office complex or in an office trailer or other on site space is suggested as a guide. For sites containing more than one fuel facility, any additional space required shall be specified in the request for space and for each additional inspector required shall not exceed the minimum space dimensions provided for the initial inspector. For sites containing multiple fuel facilities, additional space may be requested to accommodate additional full-time inspector(s). The office space that is provided shall be subject to the approval of the Director, Office of Inspection and Enforcement. All furniture, supplies and communication equipment will be furnished by the Commission.

(iii) The licensee or permittee shall afford any NRC resident inspector assigned to that site, or other NRC inspectors, identified by the Regional Director as likely to inspect the facility, immediate unfettered access, equivalent to access provided regular plant employees, following proper identification and compliance with applicable access control measures. Access may be limited only to the extent required for the inspectors safety. for security, radiological protection and personal safety.

(Sec. 161, Pub. L 83-703, 68 Stat. 948 (42 U.S.C. 2201), Sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841)).

Dated at Washington, D.C. this _____ day of _____, 1979.

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel J. Chilk
Secretary of the Commission

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ENCLOSURE C

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ENCLOSURE "C"
NRC AMENDS REGULATIONS TO PROVIDE
OFFICE SPACE FOR RESIDENT INSPECTORS

The Nuclear Regulatory Commission is amending its regulations as part of its implementation of a program of placing resident inspectors at commercial nuclear power plant sites and at fuel cycle facilities.

Eventually, the Commission plans to place at least one, full-time resident inspector at all operating power reactor sites, at power reactor sites in latter stage of construction and at selected fuel cycle facilities licensed by the NRC to fabricate or reprocess nuclear fuel. The purpose of the resident inspection program is to: (a) increase direct inspection observations; (b) provide greater NRC inspector availability in the event of an accident; and (c) facilitate unannounced inspections. A list of facilities to which resident inspectors have been assigned to date is attached.

Under the amendments, licensees--those which hold operating licenses or construction permits-- will be required to provide on site office space of a minimum specified size--and including heat, air conditioning, lighting, electrical outlets and janitorial services--to accommodate a full-time inspector, part-time secretary and other NRC personnel who may visit the site from time to time. If additional full-time inspectors are assigned to sites with more than one reactor, additional office space will have to be provided. All furniture, supplies and communication equipment will be furnished by the NRC.

In order to assure that the resident inspector--and/or regionally-based inspectors-- are afforded the necessary opportunity to conduct unfettered reviews of the work in progress at a given facility, it will be necessary for them to have the same access as employees. Accordingly, they will be required to complete all site-specific radiological safety and security training and will conform to all station safety and security requirements.

For NRC personnel who visit a site infrequently, a briefing on site-specific radiological protection practices and security and emergency-response actions will suffice for unescorted access to other than vital areas and radiation areas.

The amendments to Part 50 and 70 of the NRC's regulations will become effective within ____ days of publication in the Federal Register on _____.

Attachment

561 338
Enclosure C

PLANTS TO WHICH RESIDENT INSPECTORS HAVE BEEN
ASSIGNED

Salem Nuclear Generating Station, Salem, NJ
Peach Bottom Nuclear Power Plant, Peach Bottom, PA
Indian Point Nuclear Station, Indian Point, NY
Millstone Nuclear Power Plant Station, Waterford, CT
Susquehanna Steam Electric Station, Berwick, PA
Surry Power Station, Gravel Neck, VA
North Anna Nuclear Power Station, Mineral, VA
Browns Ferry Nuclear Power Plant, Decatur, AL
Oconee Nuclear Station, Seneca, SC
Hatch Nuclear Power Plant, Baxley, GA
Watts Bar Nuclear Plant, Spring City, TN
D. C. Cook Nuclear Plant, Bridgman, MI (one of pilot plants
for resident inspection)
Dresden Nuclear Power Station, Morris, IL
Midland Nuclear Power Plant, Midland, MI
Prairie Island Nuclear Power Plant, Red Wing, MN
Arkansas Nuclear Power Station, Russellville, AR
Comanche Peak Steam Electric Station, Glen Rose, TX
Trojan Nuclear Plant, Prescott, OR
San Onofre Nuclear Generating Station, San Clemente, CA
Diablo Canyon Nuclear Power Station, San Luis Obispo, CA
Nuclear Fuel manufacturing facilities at Apollo, Leechburg, PA
and Cheswick, PA (one inspector for all three) and at Erwin, TN

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ENCLOSURE D

ENCLOSURE "D"

Response to Office of Policy Evaluation Comments

The two wording changes recommended by OPE for subparagraph (b)(iii) of § 50.70 and subparagraph (c)(iii) of § 70.55 have been accommodated. The first change assures flexibility in assigning more than one resident inspector by changing the phrase "the assigned inspector" to "any NRC resident assigned to that site". The second change inserts the word "regular" between the "equivalent to access provided" and "plant employees", to be consistent with the recommended wording in Enclosure "A". The term "regular plant employee" was used on page 1 of Enclosure "B" and was added on page 2 of Enclosure "B" for consistency.

The requested explanation of the reason for the change from "immediate access" in the proposed rule to "immediate unfettered access" in the final rule was to connect the two related conditions. This is not a substantial change, merely a wording change. Unfettered access and unfettered reviews are essentially synonymous since inspectors are conducting reviews of various plant activities as soon as access to the facility is obtained.

The inconsistency between "PROMPT" and "IMMEDIATE ACCESS" identified by OPE has been corrected by changing the cover memo title and the wording in the Statement of Consideration to immediate access as stated in the rule.

Attachment: Memo A. Kenneke to
T. Rehm dated 3/26/79

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Enclosure D



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

March 26, 1979

MEMORANDUM FOR: Tom Ream, Assistant to the EDO
 FROM: Al Kempeke, Acting Director, OPE
 SUBJECT: COMMENTS ON PROPOSED FINAL AMENDMENTS TO 10 CFR 50 AND 70 TO PROVIDE FOR ON-SITE OFFICE SPACE FOR RESIDENT INSPECTORS AND PROMPT FACILITY ACCESS TO NRC INSPECTION PERSONNEL

We offer the following comments concerning facility access, as described in proposed subparagraph (b) (iii) of §50.70 (on page 4 of Enclosure "B") for reactors and subparagraph (c) (iii) of §70.55 (on page 5 of Enclosure "B") for fuel cycle facilities:

- The change from use of the phrase, "any inspector," to the phrase, "the assigned inspector," might inadvertently deny immediate unfettered access in cases where NRC might have more than one resident inspector at a site. For example, an apparent option might be to assign two resident inspectors to a site that has both a BWR and a PWR. The present proposed wording might be interpreted as meaning that facility access could be restricted to a specific one of the two resident inspectors assigned to the site. If so, this would reduce desirable flexibility, e.g. in situations that may arise where one of the two inspectors is absent or on occasions where two would be more effective. I believe that the following wording might be appropriate.

"(iii) The licensee or construction permit holder shall afford any NRC resident inspector assigned to that site,"

- The staff might wish to insert a word, such as "regular," between "equivalent to access provided" and "plant employees," since the former phrase, "for the inspector's safety," has been changed to "for security, radiological protection and personal safety." We noted that one comment identified in Enclosure "A" referred to regular plant employees.
- Regarding "applicable access control measures," I understand that some resident inspectors may have "L" instead of "Q" clearances. NRC staff clearance practices along this line, of course, should be closely coordinated with any future Commission actions relevant to access by licensee personnel.

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- We noted that "immediate access" has been changed to "immediate unfettered access," apparently to help clarify among other things, that NRC inspector access could be on an unescorted basis. The word "unfettered" had previously been explicitly used in connection with reviews of work in progress (see the supplementary information discussion of the notice of proposed rulemaking, which was published in the Federal Register on May 9, 1978). As some may see this as a substantive change, it may be useful for the FRN to note the reason for the change.
- Since proposed requirements specify immediate access, the staff might wish to change "PROMPT" in the subject title of the cover memo to "IMMEDIATE."

cc: Leonard Bickw'c

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