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UNITED STATES
 NUCLEAR REGULATORY COMMISSION
 REGION I
 631 PARK AVENUE
 KING OF PRUSSIA, PENNSYLVANIA 19406

DEC 07 1979

Docket No. 50-333

Power Authority of the State of New York
 James A. FitzPatrick Nuclear Power Plant
 ATTN: Mr. J. D. Leonard
 Resident Manager
 P. O. Box 41
 Lycoming, New York 13093

Gentlemen:

The NRC has recently amended its regulations as part of its implementation of the Resident Inspection Program. The amended regulations implement existing NRC authority to require that power reactor licensees provide (1) onsite, rent-free, exclusive use office space and (2) immediate facility access to Commission inspection personnel. I enclose a copy of the final rule that was effective September 17, 1979.

The NRC plans to assign two resident inspectors plus an NRC part-time secretary to your facility. The first resident inspector will assume his new duty station by September 30, 1980. All resident inspectors will be onsite prior to October 1981. In accordance with the regulations, the NRC expects you to provide appropriately located and adequately sized office space for this staff. Please inform the NRC Region I Director, Boyce H. Grier, within 90 days of your plans to accommodate this NRC staff at your facility.

Should you have any questions or concerns about this rule, please contact the Regional Director.

Sincerely,

Victor Stello, Jr.
 Director
 Office of Inspection
 and Enforcement

Enclosure:
 Federal Register Notice of
 August 16, 1979 on "Facilities
 and Access for Resident Inspectors"

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cc w/encl:
 R. Pasternack, Superintendent of Power
 G. Wilverding, Licensing Supervisor

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safeguards and environmental protection activities.

EFFECTIVE DATE: September 17, 1979.

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 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

**NUCLEAR REGULATORY
COMMISSION**

10 CFR Parts 50 and 70

**Licensing of Production and Utilization
Facilities; 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 of 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,

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.

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

§ 50.70 Inspections.

(b)(1) 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 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.

(2) For a site with a single power reactor or fuel facility licensed pursuant to Part 50, the space provided shall 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 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.

(3) 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 for security, radiological protection and personal safety.

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

§ 70.50 Inspections.

(c)(1) 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 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.

(2) For a site with a single fuel facility licensed pursuant to Part 70, the space provided shall 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 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.

(3) The licensee 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 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 10th day of August, 1979.