significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by close of business on the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Judd L. Bacon, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 17, 1998, and supplement dated June 23, 1998, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Van Wylen Library, Hope College, Holland, Michigan 49423–3698.

Dated at Rockville, Maryland, this 26th day of June 1998.

For the Nuclear Regulatory Commission.

Robert G. Schaaf,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–17609 Filed 7–1–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–341]

Detroit Edison Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–43 issued to the Detroit Edison Company (the licensee) for operation of the Fermi 2 plant located in Monroe County, Michigan.

The proposed amendment would provide a one-time extension of the interval for a number of technical specification (TS) surveillance requirements that will be performed in the sixth refueling outage. TS 4.0.2 and Index page xxii would be revised and TS tables 4.0.2–1 and 4.0.2–2 would be replaced to reflect the extensions.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the June 26, 1998, amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes involve a one-time only change in the surveillance testing intervals to facilitate a one-time only change in the Fermi 2 operating cycle. The proposed TS changes do not physically impact the plant nor do they impact any design or functional requirements of the associated systems. That is, the proposed TS changes do not significantly degrade the performance or increase the challenges of any safety systems assumed to function in the accident analysis. The proposed TS changes affect only the frequency of the surveillance requirements and do not impact the TS surveillance requirements themselves. In addition, the proposed TS changes do not introduce any new accident initiators since no accidents previously evaluated have as their initiators anything related to the change in the frequency of surveillance testing. Also, the proposed TS changes do not significantly affect the availability of equipment or systems required to mitigate the consequences of an accident because of other, more frequent testing or the availability of redundant systems or equipment. Furthermore, a historical review of surveillance test results supports the above conclusions. Therefore, the proposed TS changes do not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes involve a one-time only change in the surveillance testing intervals to facilitate a one-time only change in the Fermi 2 operating cycle. The proposed TS changes do not introduce any failure mechanisms of a different type than those previously evaluated since there are no physical changes being made to the facility. In addition, the surveillance test requirements themselves will remain unchanged. Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

Although the proposed TS changes will result in an increase in the interval between some surveillance tests, the impact, if any, on system availability is small based on other, more frequent testing or redundant systems or equipment, and there is no evidence of any time dependent failures that would impact the availability of the systems. Therefore, the assumptions in the licensing basis are not impacted, and the proposed TS changes do not significantly reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received by the close of business within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would

result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 3, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 26, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 29th day of June 1998.

For the Nuclear Regulatory Commission.

Andrew J. Kugler,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–17772 Filed 7–1–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333]

Power Authority of the State of New York; James A. FitzPatrick Nuclear Power Plant; Exemption

I

The Power Authority of the State of New York (the Licensee), also known as the New York Power Authority is the holder of Facility Operating License No. DPR–59, which authorizes operation of the James A. FitzPatrick Nuclear Power Plant (the facility). The license provides, among other things, that the facility is subject to all the rules, regulations and orders of the U.S. Nuclear Regulatory Commission now or hereafter in effect.

The facility is a boiling-water reactor located at the licensee's site in Oswego County, New York.

II

Section 70.24 of Title 10 of the *Code of Federal Regulations,* ''Criticality Accident Requirements,'' requires that each licensee authorized to possess special nuclear material maintain a criticality accident monitoring system in each area in which such material is handled, used, or stored. Subsections (a)(1) and (a)(2) of 10 CFR 70.24 specify detection and sensitivity requirements that these monitors must meet. Subsection (a)(1) also specifies that all areas subject to criticality accident monitoring must be covered by two detectors. Subsection (a)(3) of 10 CFR 70.24 requires licensees to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored and requires that (1) the procedures ensure that all personnel withdraw to an area of safety upon the sounding of a criticality accident monitor alarm, (2) the procedures include drills to familiarize personnel with the evacuation plan, and (3) the procedures designate responsible individuals for determining the cause of the alarm and placement of radiation survey instruments in accessible locations for use in such an emergency. Subsection (b)(1) of 10 CFR 70.24 requires licensees to provide the means of identifying quickly any personnel who have received a dose of 10 rads or more. Subsection (b)(2) of 10 CFR 70.24 requires licensees to maintain personnel decontamination facilities, arrangements for a physician and other medical personnel qualified to handle radiation emergencies, and arrangements for the transportation of contaminated individuals to treatment facilities outside the site boundary. Paragraph (c) of 10 CFR 70.24 exempts Part 50 licensees from the requirements of paragraph (b) of 10 CFR 70.24 for special nuclear material used or to be used in the reactor. Subsection (d) of 10 CFR 70.24 states that any licensee that believes that there is good cause why it should be granted an exemption from all or part of 10 CFR 70.24 may apply to the Commission for such an exemption and shall specify the reasons for the relief requested.

III

The special nuclear material that could be assembled into a critical mass at James A. FitzPatrick Nuclear Power Plant is in the form of nuclear fuel. The quantity of special nuclear material other than fuel that is stored on site in any given location is small enough to preclude achieving a critical mass. The Commission's technical staff has evaluated the possibility of an inadvertent criticality of the nuclear fuel at James A. FitzPatrick Nuclear Power Plant and has determined that it is extremely unlikely that such an accident will occur if the licensees meet the following seven criteria:

1. Only three boiling-water reactor new fuel assemblies are allowed out of a shipping cask or a storage rack at one time;

2. The k-effective does not exceed 0.95, at a 95-percent probability, 95-percent confidence level, in the event that the fresh fuel storage racks are filled with fuel of the maximum permissible U–235 enrichment and flooded with pure water;

3. If optimum moderation occurs at low moderator density, the k-effective does not exceed 0.98, at a 95-percent probability, 95-percent confidence level, in the event that the fresh fuel storage racks are filled with fuel of the maximum permissible U–235 enrichment and flooded with a moderator at the density corresponding to optimum moderation;

4. The k-effective does not exceed 0.95, at a 95-percent probability, 95-percent confidence level, in the event that the spent fuel storage racks are filled with fuel of the maximum permissible U–235 enrichment and flooded with pure water;

5. The quantity of special nuclear material, other than nuclear fuel, stored on-site in any given area is less than the quantity necessary for a critical mass;

6. Radiation monitors, as required by General Design Criterion (GDC) 63, are provided in fuel storage and handling areas to detect excessive radiation levels and to initiate appropriate safety actions; and

7. The maximum nominal U–235 enrichment is limited to 5.0 weight percent.

By letter dated April 24, 1998, the licensee requested an exemption from 10 CFR 70.24. In this request, the licensee addressed the seven criteria previously stated. The licensee stated that James A. FitzPatrick Nuclear Power Plant does not analyze optimum moderation conditions as addressed in Criteria 3 above, but has used a standard industry practice by implementing administrative and physical controls in accordance with General Electric Service Information Letter 152, ''Criticality margins for the Storage of New Fuel.'' To preclude the existence of an optimum moderation condition in the new fuel storage vault area, the following controls are used: the new fuel storage vault is equipped with drains; the pre-fire plans have been updated to prevent the use of fire fighting foam or fire house streams in a fog pattern during the storage and transfer of new nuclear fuel; and the new fuel storage vault plugs are installed during prolonged work delays. The staff has found this practice acceptable.

The Commission's technical staff has reviewed the licensee's submittal and has determined that James A. FitzPatrick Nuclear Power Plant meets the criteria for prevention of inadvertent criticality.Therefore, the staff has determined that it is extremely unlikely that an inadvertent criticality will occur in the handling of special nuclear materials or in their storage areas at the James A. FitzPatrick Nuclear Power Plant.

The purpose of the criticality monitors required by 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. The staff has determined that it is extremely unlikely that such an accident could occur. Although James A. FitzPatrick Nuclear Power Plant is not licensed to GDC 63, the licensee has radiation monitors consistent with the standards of GDC 63 in fuel storage and handling areas. These monitors will