

Mr. Douglas R. Gipson  
 Senior Vice President  
 Nuclear Generation  
 Detroit Edison Company  
 6400 North Dixie Highway  
 Newport, Michigan 48166

September 27, 1999

SUBJECT: FERMI 2 - NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (TAC NO. MA6521)

Dear Mr. Gipson:

Enclosed is a copy of the subject notice that relates to Detroit Edison Company's (DECo's) application for amendment dated September 24, 1999. This request is being treated as an exigent amendment in accordance with 10 CFR 50.91(a)(6)(i)(A).

The proposed amendment would modify current Technical Specification (TS) 3.6.1.8 by adding footnote "\*\*\*" to Action b. The footnote allows continued operation of Fermi 2 with the leakage of penetration X-26 exceeding the limit in TS 4.6.1.8.2, provided certain compensatory measures are taken. Operation would be allowed to continue until the next plant shutdown. DECo requested this amendment because the leakage through this penetration exceeds the TS limit. On September 23, 1999, DECo orally requested a Notification of Enforcement Discretion (NOED) to allow continued operation with leakage exceeding the limit until the TS amendment is issued and implemented. The NRC staff issued the NOED orally that same day. DECo provided the followup written request for the NOED on September 24, 1999.

Because the NRC staff expects to issue the Fermi 2 improved standard TSs (ITS) in the near future, the licensee has also provided a version of the TS amendment that would be compatible with the ITS. This version adds a new special operations TS, ITS 3.10.8, to address the compensatory actions and other requirements associated penetration X-26.

The notice has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/s/

Andrew J. Kugler, Project Manager, Section 1  
 Project Directorate III  
 Division of Licensing Project Management  
 Office of Nuclear Reactor Regulation

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 PDR

Docket No. 50-341

Enclosure: As stated

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 27, 1999

Mr. Douglas R. Gipson  
Senior Vice President  
Nuclear Generation  
Detroit Edison Company  
6400 North Dixie Highway  
Newport, Michigan 48166

SUBJECT: FERMI 2 - NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT  
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HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING  
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Sincerely,

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Andrew J. Kugler, Project Manager, Section 1  
Project Directorate III  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket No. 50-341

Enclosure: As stated

cc w/encl: See next page

Mr. Douglas R. Gipson  
Detroit Edison Company

Fermi 2

cc:

John Flynn, Esquire  
Senior Attorney  
Detroit Edison Company  
2000 Second Avenue  
Detroit, Michigan 48226

Drinking Water and Radiological  
Protection Division  
Michigan Department of  
Environmental Quality  
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P. O. Box 30630 CPH Mailroom  
Lansing, Michigan 48909-8130

U.S. Nuclear Regulatory Commission  
Resident Inspector's Office  
6450 W. Dixie Highway  
Newport, Michigan 48166

Monroe County Emergency Management  
Division  
963 South Raisinville  
Monroe, Michigan 48161

Regional Administrator, Region III  
U.S. Nuclear Regulatory Commission  
801 Warrenville Road  
Lisle, Illinois 60532-4351

Norman K. Peterson  
Director, Nuclear Licensing  
Detroit Edison Company  
Fermi 2 - 280 TAC  
6400 North Dixie Highway  
Newport, Michigan 48166

UNITED STATES NUCLEAR REGULATORY COMMISSIONDETROIT EDISON COMPANYDOCKET NO. 50-341NOTICE 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 Detroit Edison Company (the licensee), for operation of the Fermi 2 Plant located in Newport, Michigan.

The proposed amendment would modify current Technical Specification (TS) 3.6.1.8 by adding footnote "\*\*\*" to Action b. The footnote allows continued operation of Fermi 2 with the leakage of penetration X-26 exceeding the limit in TS 4.6.1.8.2, provided certain compensatory measures are taken. Operation would be allowed to continue until the next plant shutdown. Because the NRC staff expects to issue the Fermi 2 improved standard TSs (ITS) in the near future, the licensee has also provided a version of the TS amendment that would be compatible with the ITS. This version adds a new special operations TS, ITS 3.10.8, to address the compensatory actions and other requirements associated penetration X-26.

Detroit Edison is requesting that this license amendment request be processed in an exigent manner in accordance with 10 CFR 50.91(a)(6) because the plant is currently operating under a Notification of Enforcement Discretion (NOED) with respect to TS 3.6.1.8, Action b. In accordance with NRC procedures described in the NRC Inspection Manual, Part 9900, Notices of Enforcement Discretion, dated June 29, 1999, the licensee applied for this license

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amendment within 48 hours after the NRC staff issued the NOED on September 23, 1999. The NRC staff will process this amendment in an exigent manner, as described in the Inspection Manual, in order to minimize the time the plant is operated under the NOED.

In its application, the licensee explained why it could not have foreseen the need for this amendment. The amendment is needed to allow continued plant operation after penetration X-26 unexpectedly failed its local leak rate test on September 22, 1999. Based on the data it collected, the licensee believes the high leakage is passing through inboard containment isolation valve T4803F601. The results of previous local leak rate tests had not indicated any adverse trend in the leak tightness of this penetration.

The staff has determined that the licensee used its best efforts to make a timely application for the proposed changes and that exigent circumstances do exist and were not the result of any intentional delay on the part of the licensee.

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.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the 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 change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change revises the acceptance criteria for Drywell Air Purge Penetration X-26 to allow continued operation with inboard isolation valve T4803F601 exceeding the leakage rate. The T4803F601 is not an initiator of an event or involved in accident initiation sequence. Therefore, the proposed change does not involve an increase in the probability of an accident.

The T4803F601 or the outboard isolation valves must close to isolate penetration X-26. With the penetration isolated by the outboard isolation valves, failure of the T4803F601 would involve no significant increase in consequences of an accident since the containment function is preserved. Therefore, failure of the T4803F601 does not involve an increase in the probability or consequences of an accident.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The T4803F601 is an inboard containment isolation valve. The safety function of the valve is to provide for containment penetration X-26 post accident isolation. T4803F601 and two outboard isolation valves T4800F407 and T4800F408 comprise the penetrations isolation. The valves safety function is to close and remain closed. The outboard isolation valves are normally closed isolation valves that will be closed and deactivated. Therefore, no new or different types of failures or accident initiators are introduced by the proposed change.

3. The change does not involve a significant reduction in the margin of safety.

Operating with excessive leakage on T4803F601 places additional reliance on T4800F407 and T4800F408, as they would be the single containment barrier. The change includes closing and deactivating the outboard containment isolation valves that are normally closed to provide assurance the penetration is isolated. Closing and deactivating these valves eliminates the potential that any active failure could lead to loss of function. Past leak performance and ongoing periodic leak testing minimize the potential that passive failures would occur for these valves. The change does not involve a new mode of operation or change to the UFSAR [Updated Final Safety Analysis Report] transient analyses. Therefore, the proposed change does not involve a significant reduction in the 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 within 14 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 14-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 14-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. 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 November 1, 1999 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 a 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 the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, 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 September 24, 1999, 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 27th day of September 1999

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink, appearing to read 'A. J. Kugler', written in a cursive style.

Andrew J. Kugler, Project Manager, Section 1  
Project Directorate III  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation