



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

WASHINGTON, D.C. 20555-0001

May 23, 1995

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

SUBJECT: FERMI-2 - ISSUANCE AND PARTIAL DENIAL OF AMENDMENT RE: RELOCATION OF QUALITY ASSURANCE PROGRAM AUDIT FREQUENCY REQUIREMENTS FROM THE FERMI 2 TECHNICAL SPECIFICATIONS TO THE QUALITY ASSURANCE PROGRAM (TAC NO. M87745)

Dear Mr. Gipson:

The Commission has issued the enclosed Amendment No. 104 to Facility Operating License No. NPF-43 for the Fermi-2 facility. The amendment consists of changes to the Technical Specifications (TS) in response to your letter dated September 13, 1993.

The amendment relocates the quality assurance program audit frequency requirements from the Technical Specifications (TS) to your Quality Assurance Program (QAP). The QAP is contained in Section 17.2 of the Fermi 2 Updated Final Safety Analysis Report. We note that you have submitted corresponding changes to the QAP in accordance with 10 CFR 50.54(a) which have been reviewed by Region III.

Region III completed its review of the changes to your program as documented in its August 2, 1994, letter. The region indicated that portions of your proposed changes, specifically those requesting to change the requirement that an independent contractor be used for fire protection audits at least every third audit, vice every 3 years, were unacceptable. On this basis, the staff concludes that the corresponding change to TS 6.5.2.8.f is also unacceptable and is, therefore, denied.

A copy of our notice of partial denial to be published in the Federal Register is enclosed for your information.

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Douglas R. Gipson

- 2 -

May 23, 1995

A copy of our Safety Evaluation is also enclosed. The notice of issuance will be included in the Commission's biweekly Federal Register notice.

Sincerely,

Original signed by

Timothy G. Colburn, Sr. Project Manager
Project Directorate III-1
Division of Reactor Projects - III/IV
Office of Nuclear Reactor Regulation

Docket No. 50-341

Enclosures:

1. Amendment No. 104 to NPF-43
2. Safety Evaluation
3. Notice of Partial Denial

cc w/encls: See next page

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OFFICE	LA:PD31	PM:PD31 <i>Tee</i>	BC:TOMB	OGC	AD:PD31
NAME	CJamerson <i>[Signature]</i>	TColburn:jkd	SBlack <i>RG for</i>	<i>[Signature]</i> S. Howl	CCarpenter <i>[Signature]</i>
DATE	4/5/95	4/15/95	4/17/95	5/7/95 <i>[Signature]</i>	5/23/95

OFFICIAL RECORD COPY

Mr. Douglas R. Gipson
Detroit Edison Company

Fermi-2

cc:

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

Nuclear Facilities and Environmental
Monitoring Section Office
Division of Radiological Health
Department of Public Health
3423 N. Logan Street
P. O. Box 30195
Lansing, Michigan 48909

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

Monroe County Office of Civil
Preparedness
963 South Raisinville
Monroe, Michigan 48161

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

Ms. Lynne S. Goodman
Director - Nuclear Licensing
Detroit Edison Company
Fermi-2
6400 North Dixie Highway
Newport, Michigan 48166

DATED: May 23, 1995

AMENDMENT NO. 104 TO FACILITY OPERATING LICENSE NO. NPF-43-FERMI-2

Docket File

PUBLIC

PDIII-1 Reading

E. Adensam (E-mail)

J. Hannon

C. Carpenter

C. Jamerson

T. Colburn

OGC-WF

G. Hill (2)

C. Grimes, O-11F23

S. Black

F. Allenspach

ACRS (4)

OPA

OC/LFDCB

M. Phillips, RIII

SEDB

cc: Plant Service list



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

DETROIT EDISON COMPANY

DOCKET NO. 50-341

FERMI-2

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 104
License No. NPF-43

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by the Detroit Edison Company (the licensee) dated September 13, 1993, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

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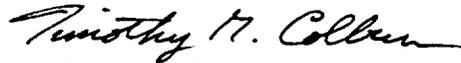
2. Accordingly, the license is amended by changes to the Technical Specifications as indicated in the attachment to this license amendment and paragraph 2.C.(2) of Facility Operating License No. NPF-43 is hereby amended to read as follows:

Technical Specifications and Environmental Protection Plan

The Technical Specifications contained in Appendix A, as revised through Amendment No. 104, and the Environmental Protection Plan contained in Appendix B, are hereby incorporated in the license. DECo shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan.

3. This license amendment is effective as of the date of its issuance to be fully implemented within 45 days.

FOR THE NUCLEAR REGULATORY COMMISSION



Timothy G. Colburn, Sr. Project Manager
Project Directorate III-1
Division of Reactor Projects - III/IV
Office of Nuclear Reactor Regulation

Attachment: Changes to the Technical
Specifications

Date of Issuance: May 23, 1995

ATTACHMENT TO LICENSE AMENDMENT NO. 104

FACILITY OPERATING LICENSE NO. NPF-43

DOCKET NO. 50-341

Replace the following pages of the Appendix "A" Technical Specifications with the attached pages. The revised pages are identified by amendment number and contain vertical lines indicating the area of change.

REMOVE

6-11
6-12

INSERT

6-11
6-12

*Overleaf page provided to maintain document completeness. No changes contained on these pages.

ADMINISTRATIVE CONTROLS

REVIEW (Continued)

- c. Proposed tests or experiments which involve an unreviewed safety question as defined in 10 CFR 50.59;
- d. Proposed changes to Technical Specifications or this Operating License;
- e. Violations of codes, regulations, orders, Technical Specifications, license requirements, or of internal procedures or instructions having nuclear safety significance;
- f. Significant operating abnormalities or deviations from normal and expected performance of unit equipment that affect nuclear safety;
- g. All REPORTABLE EVENTS;
- h. All recognized indications of an unanticipated deficiency in some aspect of design or operation of structures, systems, or components that could affect nuclear safety; and
- i. Reports and meeting minutes of the OSRO.

AUDITS

6.5.2.8 Audits of unit activities shall be performed under the cognizance of the NSRG. These audits shall encompass:

- a. The conformance of unit operation to provisions contained within the Technical Specifications and applicable license conditions;
- b. The performance, training and qualifications of the entire unit staff;
- c. The results of actions taken to correct deficiencies occurring in unit equipment, structures, systems, or method of operation that affect nuclear safety;
- d. The performance of activities required by the Operational Quality Assurance Program to meet the criteria of Appendix B, 10 CFR Part 50;
- e. The fire protection programmatic controls including the implementing procedures by qualified licensee QA personnel;
- f. The fire protection equipment and program implementation, utilizing either a qualified offsite licensee fire protection engineer(s) or an outside independent fire protection consultant. An outside independent fire protection consultant shall be utilized at least every third year;

ADMINISTRATIVE CONTROLS

AUDITS (Continued)

- g. Any other area of unit operation considered appropriate by the NSRG or the Senior Vice President - Nuclear Generation.
- h. The radiological environmental monitoring program and the results thereof;
- i. The OFFSITE DOSE CALCULATION MANUAL and implementing procedures;
- j. The PROCESS CONTROL PROGRAM and implementing procedures for processing and packaging of radioactive wastes; and
- k. The performance of activities required by the Quality Assurance Program to meet the provisions of Regulatory Guide 1.21, Revision 1, June 1974 and Regulatory Guide 4.1, Revision 1, April 1975.

RECORDS

6.5.2.9 Records of NSRG activities shall be prepared, approved, and distributed as indicated below:

- a. Minutes of each NSRG meeting shall be prepared, approved, and forwarded to the Senior Vice President - Nuclear Generation within 14 days following each meeting.
- b. Reports of reviews encompassed by Specification 6.5.2.7 shall be prepared, approved, and forwarded to the Senior Vice President - Nuclear Generation within 14 days following completion of the review.
- c. Audit reports encompassed by Specification 6.5.2.8 shall be forwarded to the Senior Vice President - Nuclear Generation and to the management positions responsible for the areas audited within 30 days after completion of the audit by the auditing organization.

6.5.3 TECHNICAL REVIEW AND CONTROL

ACTIVITIES

6.5.3.1 Procedures required by Technical Specification 6.8, and other procedures which affect plant nuclear safety as determined by the Plant Manager, and changes thereto, shall be prepared by a qualified individual/organization.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
RELATED TO AMENDMENT NO. 1⁰⁴ TO FACILITY OPERATING LICENSE NO. NPF-43

DETROIT EDISON COMPANY

FERMI-2

DOCKET NO. 50-341

1.0 INTRODUCTION

By letter dated September 13, 1993, the Detroit Edison Company (DECo or the licensee) requested an amendment to the Technical Specifications (TS) appended to Facility Operating License No. NPF-43 for Fermi 2. The proposed amendment would relocate the audit frequency requirements from Section 6.0 of the TS to the Quality Assurance Program (QAP) contained in Chapter 17.2 of the Updated Final Safety Analysis Report (UFSAR).

2.0 BACKGROUND

Section 182a of the Atomic Energy Act (the "Act") requires applicants for nuclear power plant operating licenses to state technical specifications (TS) to be included as part of the license. The Commission's regulatory requirements related to the content of technical specifications are set forth in 10 CFR 50.36. That regulation requires that the TS include items in five specific categories, including (1) safety limits, limiting safety system settings and limiting control settings; (2) limiting conditions for operation; (3) surveillance requirements; (4) design features; and (5) administrative controls. However, the regulation does not specify the particular requirements to be included in a plant's TS.

The Commission has provided guidance for the contents of TS in its "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors" ("Final Policy Statement"), 58 Fed. Reg. 39132 (July 22, 1993), in which the Commission indicated that compliance with the Final Policy Statement satisfies § 182a of the Act. In particular, the Commission indicated that certain items could be relocated from the TS to licensee-controlled documents, consistent with the standard enunciated in *Portland General Electric Co.* (Trojan Nuclear Plant), ALAB-531, 9 NRC 263, 273 (1979). In that case, the Atomic Safety and Licensing Appeal Board indicated that "technical specifications are to be reserved for those matters as to which the imposition of rigid conditions or limitations upon reactor operation is deemed necessary to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety."

Consistent with this approach, the Final Policy Statement identified four criteria to be used in determining whether a particular matter is required to be included in the TS, as follows: (1) Installed instrumentation that is used to detect, and indicate in the control room, a significant abnormal degradation of the reactor coolant pressure boundary; (2) a process variable, design feature, or operating restriction that is an initial condition of a Design Basis Accident or Transient analysis that either assumes the failure of or presents a challenge to the integrity of a fission product barrier; (3) a structure, system, or component that is part of the primary success path and which functions or actuates to mitigate a Design Basis Accident or Transient that either assumes the failure of or presents a challenge to the integrity of a fission product barrier; (4) a structure, system, or component which operating experience or probabilistic safety assessment has shown to be significant to public health and safety.¹ As a result, existing TS requirements which fall within or satisfy any of the criteria in the Final Policy Statement must be retained in the TS, while those TS requirements which do not fall within or satisfy these criteria may be relocated to other, licensee-controlled documents.

3.0 EVALUATION

The licensee proposes that the audit frequencies specified in existing TS 6.5.2.8 be relocated from the TS on the basis that they are adequately controlled elsewhere. These TS provisions are not necessary to assure safe operation of the facility, given the requirements in the QAP implementing 10 CFR 50.54 and 10 CFR Part 50, Appendix B to control the requirements for all review and audit functions. Such an approach would result in an equivalent level of regulatory authority while providing for a more appropriate change control process. The level of safety of plant operation is unaffected by this change and NRC and licensee resources associated with processing license amendments to this administrative control may be used more effectively. In addition, audit frequencies are specified in the QAP description to satisfy 10 CFR Part 50, Appendix B, Criterion XVIII. Audits are also covered by ANSI N18.7, ANSI N45.2, 10 CFR 50.54(t), 10 CFR 50.54(p), and 10 CFR Part 73. Therefore, duplication of these requirements does not enhance the level of safety of the plant, nor are the provisions relating to audits necessary to be in the TS to assure safe operation of the facility.

On this basis, the staff concludes that the audit frequencies do not need to be controlled by TS, and changes to the audit frequencies, which will be described in the QAP in sections 17.2 of the UFSAR, will be adequately controlled by 10 CFR 50.54(a). The staff has concluded, therefore, that relocation of the audit requirements described above is acceptable because (1) their inclusion in technical specifications is not specifically required by 10 CFR 50.36 or other regulations, (2) the audit requirements are not required

¹ The Commission recently promulgated a proposed change to 10 CFR 50.36, pursuant to which the rule would be amended to codify and incorporate these criteria (59 FR 48180). The Commission's Final Policy Statement specified that only limiting conditions for reactor Core Isolation Cooling, Isolation Condenser, Residual Heat Removal, Standby Liquid Control, and Recirculation Pump Trip meet the guidance for inclusion in the TS under Criterion 4 (58 FR at 39137). The Commission has solicited public comments on the scope of Criterion 4, in the pending rulemaking.

to avert an immediate threat to the public health and safety, and (3) changes to these audit requirements, as described in the applicable program description, will require prior NRC approval in accordance with §50.54(a).

Also contained in the licensee's September 13, 1993, submittal, as revised by letter dated July 26, 1994, were corresponding changes to the QAP. The changes included reductions in the frequencies of some audits and the use of an independent fire protection contractor for every third audit instead of every three years. Because of the reduction in frequency of the fire protection audits from yearly to at least once every 24 months, the use of an independent fire protection contractor could be extended as long as once every 6 years. These changes were reviewed by Region III, as documented in the Region III letter to the licensee dated August 2, 1994. The Region found acceptable all of the related proposed QAP changes except the change which would allow the extension of the use of an independent fire protection consultant for the fire protection audit to once every third audit. Neither the Region nor the staff believes that adequate independent oversight of the fire protection audit program would be achieved by this frequency. As the proposed wording of TS 6.5.2.8.f. would allow this extension, this change is being denied.

4.0 STATE CONSULTATION

In accordance with the Commission's regulations, the Michigan State official was notified of the proposed issuance of the amendment. The State official had no comments.

5.0 ENVIRONMENTAL CONSIDERATION

This amendment changes recordkeeping, reporting, and administrative procedures and requirements. Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(10). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of this amendment.

6.0 CONCLUSION

The staff has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributors: T. Colburn
F. Allenspach

Date: May 23, 1995

UNITED STATES NUCLEAR REGULATORY COMMISSIONDETROIT EDISON COMPANYDOCKET NO. 50-341NOTICE OF PARTIAL DENIAL OF AMENDMENT TO FACILITY OPERATING LICENSE
AND OPPORTUNITY FOR HEARING

The U.S. Nuclear Regulatory Commission (the Commission) has partially denied a request by Detroit Edison Company (licensee) for an amendment to Facility Operating License No. NPF-43 issued to the licensee for operation of Fermi 2, located in Frenchtown Township, Monroe County, Michigan. Notice of Consideration of Issuance of this amendment was published in the FEDERAL REGISTER on April 12, 1995 (60 FR 18625).

The licensee's proposed amendment request revised the Technical Specifications (TS) to relocate the audit frequencies in TS 6.5.2.8 to the Quality Assurance Program (QAP) in Chapter 17.2 of the Updated Final Safety Analysis Report. The licensee also proposed to extend the frequency for use of an independent fire protection contractor from once every 3 years to once every third fire protection audit. The licensee submitted corresponding changes to the QAP in accordance with 10 CFR 50.54(a) to Region III for review which also reduced some audit frequencies. The region approved the relocation of and reductions in the audit frequencies but did not approve the requested change on independent contractor use for fire protection audits. Therefore, this proposed change to the TS was also denied.

The NRC staff has concluded that the licensee's request cannot be fully granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated May 23, 1995.

By July 3, 1995, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, 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 any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48266, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated September 13, 1993, as supplemented July 26, 1994, and (2) the Commission's letter to the licensee dated May 23, 1995.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161. A copy of item (2) may be obtained upon written request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 23rd day of May 1995.

FOR THE NUCLEAR REGULATORY COMMISSION

Original signed by

Timothy G. Colburn, Sr. Project Manager
Project Directorate III-I
Division of Reactor Projects - III/IV
Office of Nuclear Reactor Regulation

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NAME	CJamerson	TColburn:jkd	<i>W. Atkinson S. How</i>	CCarpenter	<i>CA</i>
DATE	4/5/95	4/5/95	5/15/95	5/23/95	

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