

checking the protected area is required, 10 C.F.R. 73.55(c)(4), the type of personnel and patrol frequency are not specified in the regulations, but are detailed in the site physical security plan. All changes to the Zion plan are reviewed against the requirements of the regulations and site specific needs. The NRC inspects against the commitments contained in the approved plan to verify that the plan remains effective and that the Licensee continues to fulfill its commitments. Based on NRC staff review of the Zion security plan and its associated revisions, and upon onsite verification of Zion's commitments, Zion continues to meet the performance objectives of 10 C.F.R. 73.55(a) and its commitments under its security plan.

As explained above, although the October 7, 1994, revision to the Zion security plan will result in a reduced number of armed guards, the number of armed response personnel will not decline and the Licensee continues to meet the specific requirements of 10 C.F.R. 73.55(h)(3) with respect to the number of armed response personnel. In regard to the positioning of armed response personnel, NRC regulations require that licensees establish a safeguards contingency plan which requires armed response personnel to interpose themselves between vital areas and material access areas such that armed response personnel can prevent entry for the purpose of radiological sabotage. 10 C.F.R. 73.55(h)(4)(iii)(A). If revisions to a licensee's security plan meet the requirements of 10 C.F.R. 73.55, the NRC staff concludes that the revisions are consistent with 10 C.F.R. 50.54(p) and that they will not decrease the effectiveness of the safeguards plan. In this case, the NRC staff concluded that the October 7, 1994, revision to the Zion security plan met the requirements of 10 C.F.R. 73.55 and did not result in decreased effectiveness of the plan.

In view of the above, the Petitioners have not raised a substantial safety concern regarding manning and positioning of armed guards at Zion Station.

G. Additional Concern Noted on a Copy of the Petition Sent to Senator Simon

Petitioners appended an additional concern that low level waste is now being stored in the owner controlled area with no security patrols except a casual tour once per eight hour shift, on a copy of the Petition addressed to United States Senator Paul Simon of Illinois. Senator Simon referred the concern to the DOE, and DOE subsequently forwarded it to the NRC. Petitioners' supplemental letter of February 28, 1995, asserts that the

interim radwaste storage facility is worthy of one full 24-hour patrol and alarmed, continuous surveillance equipment, such as a camera.

Storage and control of NRC-licensed material are governed, in pertinent part, by 10 CFR 20.1801 of Subpart I to 10 CFR part 20, which requires licensees to secure from unauthorized removal or unauthorized access licensed materials that are stored in controlled or unrestricted areas. The security requirements of 10 CFR part 73 do not apply to the storage of low level waste. Zion Station maintains an interim radwaste storage facility (IRSF) for licensed material on-site, within the owner controlled area to which general access is not permitted. The IRSF is locked, key access is controlled, and once in each 8 hour shift the IRSF is patrolled by a security officer. The staff finds that the IRSF at the Zion facility is in compliance with 10 CFR 20.1801.

For the reasons stated above, Petitioners have not raised a substantial safety concern regarding security of low level waste in the owner controlled area at the Zion facility.

IV. Conclusion

The institution of a proceeding in response to a request for action under 10 CFR 2.206 is appropriate only when substantial health and safety issues have been raised. See *Consolidated Edison Co. of New York* (Indian Point, Units 1, 2, and 3), CLI-75-8, 2 NRC 173, 176 (1975), and *Washington Public Power Supply System* (WPPSS Nuclear Project No. 2), DD-84-7, 19 NRC 899, 923 (1984). I have applied this standard to determine what action, if any, is warranted in response to the matters raised by Petitioners. Each of the claims or allegations by Petitioners has been reviewed, and I conclude that, for the reasons discussed above, Petitioners have raised no substantial safety concern regarding the revised security plan for the Zion facility. Petitioners' requests that the NRC withdraw its approval of the changes to the security plan and that the NRC require an increase in the number of, or a change in the positioning of, armed guards at the Zion Nuclear Power Station, are denied. Petitioners' request that the NRC demand greater justification for the proposal to reduce the number of armed guards and the defense of the Zion Nuclear Power Station is denied. Since the NRC has agreed with the Licensee that the changes to Zion's security plan do not decrease the effectiveness of the plan, per 10 CFR 50.54(p), NRC approval to implement the changes to Zion's security plan is not required.

A copy of this Decision will be filed with the Secretary of the Commission for the Commission to review in accordance with 10 CFR 2.206(c). As provided by Section 2.206(c), this Decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 26th day of May 1995.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 95-13501 Filed 6-1-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-341]

Detroit Edison Company; Notice 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 48160. 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,
Timothy G. Colburn, Sr.,

*Project Manager, Project Directorate III-I,
Division of Reactor Projects—III/IV, Office of
Nuclear Reactor Regulation.*

[FR Doc. 95-13500 Filed 6-1-95; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35774; File No. SR-NASD-95-24]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change Regarding Depository Eligibility Requirements

May 26, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on

May 19, 1995, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by the NASD. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to amend Part II, Section 1(c) of Schedule D to the NASD By-laws ("By-laws") to establish depository eligibility requirements for issuers that desire to have their securities included in the Nasdaq Stock Market ("Nasdaq").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under the proposed rule change, the NASD will adopt a uniform depository eligibility rule for issuers that desire to have their securities eligible for inclusion in Nasdaq. The uniform rule has been developed by the Legal and Regulatory Subgroup of the U.S. Working Committee of the Group of Thirty in coordination with each of the national securities exchanges and the NASD. It is anticipated that each national securities exchange in addition to the NASD will file rule changes proposing adoption of depository eligibility standards substantially similar to the NASD's proposed rule³

²The Commission has modified the language in these sections.

³In addition to the listing requirement contained in Schedule D to the By-laws, the NASD is proposing to amend the definition of "depository eligibility" contained in its book-entry settlement rule contained in Section 11 of the NASD Uniform Practice Code consistent with the amendment to Schedule D. Section 11 must be amended because the NASD's depository settlement rule applies to all NASD members regardless of where the securities

and will seek to make such changes effective contemporaneously with the effective date of the transition from a five-day ("T+5") to a three-day ("T+3") settlement cycle. The transition is set to occur June 7, 1995.⁴

The proposed rule change will require that before any issue of securities of a domestic issuer (excluding securities of a Canadian issuer) is eligible for inclusion in Nasdaq, such issue of securities must have a CUSIP number that is included in the file of eligible issues maintained by a securities depository registered as a clearing agency under Section 17A of the Securities Exchange Act of 1934.⁵

While the NASD believes that depository eligibility should be universal and that few exemptions be granted, the proposed rule change will not apply to a security if the terms of such security cannot be reasonably modified to meet the criteria for depository eligibility at all securities depositories. The exemption authority is intended to address the situation where a Nasdaq company issues short-term warrants and other similar short-term securities that are not generally depository eligible. The NASD does not believe that the issuers of such securities should be required to obtain individual exceptions from the proposed new listing requirement in order to permit those securities to be listed during their short life span. However, an exemption is not intended to be available in instances where the issuer could meet the depository eligibility requirements but chooses not to do so or has not left enough time prior to the offering to do so.

The proposed rule change sets forth additional requirements that must be met before a security will be deemed to be "depository eligible," as such term is used in Part II, Section 1(c) of Schedule D to the By-laws and Section 11 of the NASD Uniform Practice Code ("UPC").⁶ The proposed rule specifies different requirements for depository eligibility depending upon whether a new issue is distributed by an underwriting syndicate before or after the date a securities depository system is available for monitoring repurchases of the

are listed. In comparison, the depository settlement rule of the exchanges only applies to transactions in the securities listed on the exchange.

⁴Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (adoption of Rule 15c6-1) and 34952 (November 9, 1994), 59 FR 59137 (change of effective date of Rule 15c6-1 from June 1, 1995 to June 7, 1995).

⁵U.S.C. 78q-1 (1988).

⁶Pursuant to section 11 of the UPC, trades by a member in depository eligible securities generally must be settled by book-entry through a securities depository.

¹ 15 U.S.C. 78s(b)(1) (1988).