

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

For the Nuclear Regulatory Commission.

Andrew J. Kugler,

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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

alert personnel to excessive radiation levels and allow them to initiate appropriate safety actions. The low probability of an inadvertent criticality, together with the licensee's adherence to GDC 63 standards, constitutes good cause for granting an exemption to the requirements of 10 CFR 70.24.

IV

The Commission has determined that pursuant to 10 CFR 70.14, this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR 70.24 for the James A. FitzPatrick Nuclear Power Plant.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant adverse environmental impact (63 FR 34205).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 24th day of June 1998

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 72-9]

Notice of Issuance of Amendment to Materials License SNM-2504, Public Service Company of Colorado, Fort St. Vrain Independent Spent Fuel Storage Installation

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment 5 to Materials License No. SNM-2504 held by the Public Service Company of Colorado (PSCo) for the receipt, possession, storage, and transfer of spent fuel at the Fort St. Vrain (FSV) independent spent fuel storage installation (ISFSI), located in Weld County, Colorado. The amendment is effective as of the date of issuance.

By application dated November 25, 1997, PSCo requested an amendment to revise Materials License SNM-2504 and the Technical Specifications for the FSV ISFSI to (1) replace 10 CFR 50 Program references with stand-alone ISFSI program references due to the termination of the FSV 10 CFR part 50 license, (2) delete references to

previously authorized material that is not stored at the ISFSI, and (3) revise the Technical Specifications to accurately reflect the current ISFSI activities.

This amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

In accordance with 10 CFR 72.46(b)(2), a determination has been made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing by July 31, 1998, on whether the action should be rescinded or modified.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.22(c)(10)(ii), an environmental assessment need not be prepared in connection with issuance of the amendment.

Documents related to this action are available for public inspection at the Commission's Public Document Room located at the Gelman Building, 2120 L Street, NW, Washington, DC 20555.

Dated at Rockville, Maryland, this 24th day of June 1998.

For the Nuclear Regulatory Commission.

William F. Kane,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-250 and 50-251]

Turkey Point Plant, Units 3 and 4; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulation Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License Nos. DPR-31 and DPR-41 for the Turkey Point Plant, Units 3 and 4, respectively, issued to the Florida

Power and Light Company (the licensee).

Environmental Assessment

Identification of Proposed Action

The proposed action is in response to the licensee's application dated March 5, 1998, for exemption from the requirements of 10 CFR 50.71(e)(4) regarding submission of revisions to the updated Final Safety Analysis Report (FSAR). Under the proposed exemption, the licensee would schedule updates to a single, unified FSAR for the two units based on the refueling cycle of Unit 4 and at intervals not to exceed 24 months.

The Need for the Proposed Action

The Code of Federal Regulations, 10 CFR 50.71(e)(4), requires licensees to submit updates to their FSAR annually or within 6 months after each refueling outage providing that the interval between successive updates does not exceed 24 months. Since Units 3 and 4 share a common FSAR, the licensee must update the same document annually or within 6 months after a refueling outage for either unit. The underlying purpose of the rule was to relieve licensees of the burden of filing annual FSAR revisions while assuring that such revisions are made at least every 24 months. The Commission reduced the burden, in part, by permitting a licensee to submit its FSAR revisions 6 months after refueling outages for its facility, but did not provide for multiple unit facilities sharing a common FSAR in the rule. Rather, the Commission stated: "With respect to the concern about multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis." 57 FR 39355 (1992). Allowing the exemption would maintain the updated FSAR current within 24 months of the last revision.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that it involves administrative activities unrelated to plant operation.

The proposed action will not result in an increase in the probability or consequences of accidents or result in a change in occupational exposure or offsite dose. Therefore, there are no significant radiological impacts associated with the proposed action.

The proposed action will not result in a change in nonradiological plant effluents and will have no other nonradiological environmental impact.