

Secy

From: Rodney W Johnson [johnsonrw@dteenergy.com]
Sent: Thursday, May 08, 2008 5:03 PM
To: Secy
Cc: Lynne S Goodman
Subject: RIN 3150-AH45
Attachments: NRC-08-0041.pdf

Please see attached letter "Comments on Proposed Rule on Decommissioning Planning, RIN 3150-AH45"

Rod Johnson
Supervisor, Licensing and Environmental
Fermi 2
734/586-5076
nuclear. clean air energy.

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Detroit Edison



10CFR30

May 8, 2008
NRC-08-0041

Secretary, U.S. Nuclear Regulatory Commission
Washington D C 20555-0001
Attention: Rulemakings and Adjudications Staff

- References: 1) Enrico Fermi Atomic Power Plant, Unit No. 1
NRC Docket No. 50-16
NRC License No. DPR-9
- 2) Fermi 2
NRC Docket No. 50-341
NRC License No. NPF-43

Subject: Comments on Proposed Rule on Decommissioning Planning,
RIN 3150-AH45

Detroit Edison is submitting these comments on the proposed rule on Decommissioning Planning, RIN 3150-AH45. Detroit Edison is the licensee for Fermi 1 and Fermi 2. Fermi 1 is actively decommissioning while in the last phase of SAFSTOR, deferred decontamination, with license termination currently scheduled for 2012. Fermi 2 is an operating boiling water reactor. The proposed rule and associated guidance would impact both facilities, though differently. Increased costs would be incurred and procedures impacted by the additional requirements. Detroit Edison strongly believes a backfit analysis is required for the proposed rule. Changes go well beyond clarification of existing requirements and reporting of existing information.

Detroit Edison agrees with NEI's comments regarding need for a backfit analysis. Examples of new requirements range from increased soil and groundwater monitoring during operations to requirement that the independent accountant evaluate the company's off-balance sheet transactions when providing the opinion on whether the financial test for a parent company guarantee is met.

Regarding the latter, it is currently challenging to meet the March 31 date for annual submittal of the financial assurance report for Fermi 1, since we are currently submitting the independent account's review of the financial test with the report. Concept discussions with the independent accountant identified that the additional requirements would take considerable more evaluation time at a greater cost. If this proposed provision is adopted, the submittal date will need to be extended by a least 1 month to allow reasonable performance of the additional evaluation. Detroit Edison considers this existing review adequate and does not consider the additional evaluation warranted.

Discussion in Section F in the Federal Register notice states there are no changes in financial assurance requirements for nuclear power reactors. This is not correct, since the financial tests in 10CFR30 apply to Part 50 licensees using a parent company guarantee. If the changes in 10CFR30 regarding the financial test and auditing will not apply to Part 50 licensees, the rule needs to explicitly state so. Currently, Detroit Edison is using a parent company guarantee to provide financial assurance for part of the remaining decommissioning cost of Fermi 1. Additionally, a standby trust should not be required to support a parent company guarantee if a decommissioning trust has already been established. It is not clear in the proposed rule how much of the revised guidance on parent company guarantees applies to power reactors, since the guidance document explicitly states it does not apply to Part 50 reactor licensees. The parent company guarantee should not have to cover costs beyond the guarantee amount, since legally that is the commitment is. Note, Detroit Edison agrees with specifying that adjustments of "+" and "-" to bond ratings are included. Previous guidance has covered this, but the rule is an appropriate place to include this clarification and can eliminate future questions.

The discussion section also states that the NRC expectation is that no additional surveys will be required of power reactor licensees; including installing additional monitoring equipment, monitoring, and surveying, except on a case by case basis, if significant residual contamination is identified. The guidance of how to implement the requirements does not support this expectation. Additional hydro-geological evaluations and activity monitoring in substrate and water would be required. Detroit Edison does not object to performing surveys when there is a reason to believe that significant subsurface contamination is present that constitutes a significant radiological hazard. This requirement would be appropriate following identification of a significant spill or unplanned release. The proposed rule and guidance goes well beyond this.

Detroit Edison has no objection to the proposed definition of residual radioactivity. It is important that it continue to exclude background. Detroit Edison also agrees that documentation of subsurface contamination shall be placed in decommissioning records. However, a small leak or spill inside a building that is promptly fully cleaned up and for which surveys show no residual activity, is not a

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decommissioning issue. Detroit Edison objects to terminology referring to "any" leakage or spills.

The proposed review to 10CFR50.82(a)(8)(v)(B) includes a decommissioning licensee reporting on several items in the annual report, including the decommissioning criteria upon which the estimate is based. It is not clear what is meant by "the decommissioning criteria upon which the estimate is based". The wording is not addressed in the discussion section of the Federal Register notice and requires clarification.

If the proposed rule is finalized, more than 60 days will be needed to implement it. If it is issued in January, then it needs to apply to the decommissioning financial assurance report due in the following year.

Detroit Edison appreciates the opportunity to make these comments. If you have any questions on them, contact Lynne Goodman at 734-586-1205.

Sincerely,



Ronald W. Gaston
Manager, Nuclear Licensing

cc: NRC Project Manager
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