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**DTE Energy**



10CFR20.2301

November 13, 2009  
NRC-09-0073

Attention: Document Control Desk  
Director, Office of Nuclear Material Safety and Safeguards  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

- References:
- 1) Fermi 1  
NRC Docket No. 50-16  
NRC License DPR-9
  - 2) Detroit Edison letter, NRC-09-0049, "Waste Shipment Not Received Within Twenty Days", dated, July 29, 2009
  - 3) Detroit Edison letter, NRC-09-0071, "Waste Shipment Not Received Within Twenty Days", dated, October 30, 2009

Subject: **Fermi 1 Exemption from Certain Low Level Waste Shipment  
Tracking Requirements in 10 CFR 20, Appendix G**

In accordance with 10CFR20.2301, Detroit Edison requests an exemption from 10CFR20, Appendix G, Section III.E requirements regarding investigating, tracing, and reporting of low level radioactive waste shipments that are not acknowledged by the recipient within 20 days after transfer to the shipper. Detroit Edison requests the 20 day time period be extended to 35 days for rail and truck/rail shipments.

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Detroit Edison is the licensee for Fermi 1, a permanently shutdown fast breeder reactor presently being decommissioned. Detroit Edison ships radioactive waste from Newport, MI to the Energy Solutions disposal site in Clive, UT by truck and rail. Early in the project most shipments were via truck and typically reached the disposal site within 1 week. More shipments are now being made by rail, as larger and bulkier components and parts are being removed. Detroit Edison has not yet received the acknowledgement of receipt for any rail shipment from Fermi 1 to the disposal site within 20 days.

Over the next year, multiple shipments will be made by rail. The need to investigate and report to the NRC for any shipment for which receipt acknowledgement is not received within 20 days results in an excessive administration burden with no added value. References 2 and 3 are examples of recent reports submitted to the NRC.

Detroit Edison via Energy Solutions or the rail broker, MHF Services, tracks the shipment progress. The last 2 shipments have taken 21 days for transit, plus the recipient is allowed up to 1 week per 10CFR20, Appendix G, Section III.D.1, to send acknowledgement of receipt of the shipment. The current shipment has just reached Clive, Utah and Detroit Edison is working to try to obtain acknowledgment of the receipt within the 20 days. The tracking of rail shipments fulfills the need to investigate a late shipment that may be lost, misdirected, or diverted. Detroit Edison believes the need to investigate, trace, and report to the NRC on the shipment of low level radioactive waste packages not reaching their destination within 20 days does not serve the underlying purpose of the rule for rail or combination truck/rail shipments and is not necessary. Establishing an extended elapsed time of 35 days will require investigation and reporting if an abnormal shipping time were to occur. Therefore, granting the exemption will not result in an undue hazard to life or property.

Per 10CFR20.2301, the NRC may grant an exemption from the requirements of the regulations in Part 20 if it is determined the exemption is authorized by law and would not result in undue hazard to life or property. Per the similar exemptions granted to Connecticut Yankee (ML042730167) and San Onofre (TAC No. L52615), the NRC concluded that there are no provisions in the Atomic Energy Act or in any other Federal statute that impose a requirement to investigate and report on low level radioactive waste shipments that have not been acknowledged by the recipient within 20 days of transfer.

Detroit Edison is only requesting the extended time for rail and combination truck/rail shipments since historically truck shipments have arrived at the destination and acknowledgements have been received within the 20 days.

Detroit Edison would appreciate prompt approval of this exemption request. Rail shipments were infrequent earlier in the project, so sufficient data was not available to demonstrate that the period from shipment to acknowledgement receipt would consistently be greater than 20 days. As part of the ongoing reactor and large component removal project, Detroit Edison expects multiple rail shipments within the next year. During some evolutions, shipments will

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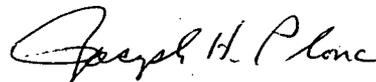
be made almost weekly, possibly requiring almost weekly investigations and reports to the NRC which will be burdensome without adding value. The planned shipping frequency will be increasing starting later this month.

Note that the Environmental Protection Agency has a similar tracking requirement for hazardous wastes. 40CFR262.42 requires generators to investigate shipments of hazardous waste if the signed manifest is not received within 35 days.

Please promptly grant the exemption to extend the period allowed for rail and truck/rail shipments to reach their destination without requiring investigation and reporting.

If you should have any questions, please contact L. Goodman, of my staff, at 734-586-1205.

Sincerely



J. H. Plona

JHP/LSG/ljd

cc: NRC Project Manager  
NRC Resident Office  
P. Lee (NRC Region III)  
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