

From: Chawla, Mahesh
Sent: Monday, January 11, 2010 2:07 PM
To: Alan I Hassoun
Cc: Pascarelli, Robert; Wengert, Thomas; Costa, Richard; Schnetzler, Bonnie; Steen, Amy
Subject: Fermi 2 - Request for Exemption from Physical Security Requirements - ME2656

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, "Physical Protection of Plants and Materials," Section 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," published as part of a final rule in the *Federal Register* on March 27, 2009 (74 FR 13926), requires licensees to protect, with high assurance, against radiological sabotage by designing and implementing comprehensive site security plans. The final rule became effective on May 26, 2009, and compliance with the final rule is required by March 31, 2010.

By letter dated November 19, 2009, DTE Energy (the licensee) requested, pursuant to 10 CFR 73.5, that the Nuclear Regulatory Commission (NRC) approve an exemption from the schedular requirements of the final rule for 10 CFR 73.55 for Fermi 2. Specifically, due to the time required to complete plant modifications, the licensee has requested an exemption from the March 31, 2010, implementation date specified in the new rule for certain requirements in the rule. The items subject to the request for exemption are proposed to be implemented by May 31, 2011. DTE Energy letter number NRC-09-0059 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML093270068 and ML093270067 respectively), contains enclosures 1 and 2 which were designated by the licensee as containing safety related information and, accordingly, the enclosures are not available to the public. The cover letter and the remainder of the enclosures are available to public.

On December 2, and December 14, 2009, the NRC staff held teleconferences with the licensee and requested clarifications to the information provided in the submittal. In response to the discussions with the NRC staff, the licensee provided supplemental information in a letter Dated December 23, 2009, letter no. NRC-09-0081 (ADAMS Accession Nos. ML100040010 and ML100040011 respectively). Enclosures 1 and 2 of the letter are considered security-related information to be withheld from public in accordance with provisions of 10CFR 2.390. Cover letter and enclosures 3, 4,5 are not related to security and are available to public. Enclosures 4 and 5 of the letter replaced the similar enclosures in the first letter.

The purpose of this e-mail is to provide the results of the NRC staff's acceptance review of this exemption request. The acceptance review was performed to determine if there is sufficient technical information in scope and depth to allow the NRC staff to complete its detailed technical review. The acceptance review is also intended to identify whether the application has any readily apparent information insufficiencies in its characterization of the regulatory requirements or the licensing basis of the plant. Pursuant to 10 CFR 73.5, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

The NRC staff has reviewed your exemption request and concluded that it does provide technical information in sufficient detail to enable the staff to proceed with its detailed technical review and make an independent assessment regarding the acceptability of the proposed request in terms of regulatory

requirements and the protection of public health and safety and the environment. Given the lesser scope and depth of the acceptance review as compared to the detailed technical review, there may be instances in which issues that impact the NRC staff's ability to complete the detailed technical review are identified despite completion of an adequate acceptance review. You will be advised of any further information needed to support the NRC staff's detailed technical review by separate correspondence.

If you have any questions, please contact me.

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