

Joseph H. Plona
Site Vice President

6400 N. Dixie Highway, Newport, MI 48166
Tel: 734.586.5910 Fax: 734.586.4172

DTE Energy



February 5, 2010
NRC-10-0009

10 CFR20.2301

U. S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington D C 20555-0001

- References:
- 1) Fermi 2
NRC Docket No. 50-341
NRC License No. NPF-43
 - 2) Detroit Edison letter, NRC-09-0008,
"Waste Shipment Not Received
Within Twenty Days", dated, February 2, 2009
 - 3) Detroit Edison Letter, NRC-09-0073, "Fermi 1
Exemption from Certain Low Level Waste Shipment
Tracking Requirements in 10 CFR20, Appendix G",
dated November 13, 2009

Subject: Fermi 2 Exemption from Certain Low Level Waste
Shipment Tracking Requirements in 10 CFR 20, Appendix G

In accordance with 10 CFR20.2301, Detroit Edison requests an exemption from 10 CFR20, 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 initial shipper.

Detroit Edison, the licensee for Fermi 2, ships radioactive waste from Newport, Michigan to the Energy Solutions disposal site in Clive, Utah by truck and rail. The new travel-time limit would be extended to radioactive waste shipments that take more than 35 days, instead of radioactive waste that take greater than 20 days to reach the disposal facility. It should be noted that the 35 day limit is consistent with the Environmental Protection Agency's limits for hazardous waste shipments as codified in 40 CFR Section 262.42.

Many radioactive waste shipments from Fermi 2 are made via truck and often reach the disposal site within 1 week. However, more rail shipments of radioactive waste from Fermi 2 are anticipated. Experience from the Fermi 1 decommissioning project has

shown that rail shipments to Energy Solutions from the Fermi site typically take more than 20 days to reach their destination in Clive, Utah (Reference 3).

Under these circumstances, the need to investigate and report to the NRC for any radioactive shipment for which notification or receipt acknowledgement is not received within 20 days results in an administrative burden with no added value. Detroit Edison believes the need to investigate, trace, and report to the NRC on shipments of low level radioactive waste 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. The shipments are tracked by the transportation vendor by use of the car number through the railroad tracking system. Extending the time period will still 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 10 CFR20.2301, the NRC may grant an exemption from the requirements of the regulations in Part 20 if it is determined that the exemption is authorized by law and would not result in undue hazard to life or property. In rulings for similar exemptions granted to Connecticut Yankee (TAC No. L60567) 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.

Based on the above, Detroit Edison requests that NRC grant an exemption to extend the period allowed for rail and truck/rail shipments of low-level radioactive waste to reach their destination to 35 days.

Should you have any questions, please contact Ed Kokosky, Manager - Radiation Protection of my staff, at 734-586-4121.

Sincerely,



cc: NRC Project Manager
NRC Resident Office
Reactor Projects Chief, Branch 4, Region III
Regional Administrator, Region III
Supervisor, Electric Operators,
Michigan Public Service Commission