

NUCLEAR REGULATORY COMMISSION

DTE ENERGY

DOCKET NO. 50-16

NRC-2009-0073

ENRICO FERMI ATOMIC POWER PLANT UNIT 1

EXEMPTION FROM CERTAIN LOW-LEVEL WASTE SHIPMENT TRACKING

REQUIREMENTS IN 10 CFR PART 20 APPENDIX G

1.0 BACKGROUND

DTE Energy (DTE) is the licensee and holder of Facility Operating License No. DPR-9 issued for Enrico Fermi Atomic Power Plant, Unit 1 (Fermi-1), located in Monroe County, Michigan. Fermi-1 is a permanently shutdown nuclear reactor facility. DTE is in the process of decommissioning Fermi-1 and radioactive waste shipments from the site are ongoing and expected to increase over the next year. During the decommissioning process, large volumes of slightly contaminated concrete rubble and debris are generated that require shipment for disposal in offsite low-level radioactive waste disposal sites. Experience at other decommissioning nuclear power facilities has shown that, due primarily to the volume of radioactive waste; licensees have encountered an increase in the number of routine shipments that take longer than 20 days from transfer to the shipper to receipt acknowledgment from the disposal site. Each shipment with receipt notifications greater than 20 days requires a special investigation and report to the U.S. Nuclear Regulatory Commission (NRC or the Commission) which the licensee believes to be burdensome and unnecessary to meet the intent of the regulation.

2.0 REQUEST/ACTION

In a letter to the Commission dated November 13, 2009, DTE requested an exemption from the requirements in 10 CFR Part 20, Appendix G, Section III.E, to investigate and file a report to the NRC if shipments of low-level radioactive waste are not acknowledged by the intended recipient within 20 days after transfer to the shipper. This exemption would extend the time period that can elapse during shipments of low-level radioactive waste before DTE is required to investigate and file a report to the NRC from 20 days to 35 days. The exemption would be applicable to rail and truck/rail mixed-mode shipments. The exemption request is based on an analysis of the historical data of low-level radioactive waste shipment times from the Fermi-1 site to the disposal site.

3.0 DISCUSSION

The proposed action would grant an exemption to extend the 20-day investigation and reporting requirements for shipments of low-level radioactive waste to 35 days.

Historical data derived from experience at Fermi-1 indicates that rail transportation time to waste disposal facilities almost always exceed the 20-day reporting requirement. A review of the Fermi-1 data indicates that transportation time for shipments by rail or truck/rail took over 20 days on average. In addition, administrative processes at the disposal facilities and mail delivery times could add several additional days.

Pursuant to 10 CFR 20.2301, the Commission may, upon application by a licensee or upon its own initiative, grant an exemption from the requirements of regulations in 10 CFR Part 20 if it determines the exemption is authorized by law and would not result in undue hazard to life or property. 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.

Therefore, the Commission concludes that there is no statutory prohibition on the issuance of the requested exemption and the Commission is authorized to grant the exemption by law.

The Commission acknowledges that, based on the shipment times to date from the Fermi-1 site to the disposal facility, the need to investigate and report on shipments that take longer than 20 days could result in an excessive administrative burden on the licensee. The Commission finds that the underlying purpose of the Appendix G timing provision at issue is to investigate a late shipment that may be lost, misdirected, or diverted. Furthermore, by extending the elapsed time for receipt acknowledgment to 35 days before requiring investigations and reporting, a reasonable upper limit on shipment duration (based on historical analysis) is still maintained if a breakdown of normal tracking systems were to occur. Consequently, the Commission finds that there is no hazard to life or property by extending the investigation and reporting time for low-level radioactive waste shipments from 20 days to 35 days for rail and truck/rail mixed-mode shipments. Therefore, the Commission concludes that the underlying purpose of 10 CFR Part 20, Appendix G, Section III.E will be met.

4.0 CONCLUSION

Accordingly, the Commission has determined that, pursuant to 10 CFR 20.2301, the exemption requested by DTE in its November 13, 2009, letter is authorized by law and will not result in undue hazards to life or property. Therefore, the Commission hereby grants DTE an exemption to extend the 20-day investigation and reporting requirements for shipments of low-level radioactive waste, as required by 10 CFR Part 20, Appendix G, Section III.E, to 35 days.

Pursuant to 10 CFR 51.31, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment as documented in *Federal Register* (FR) notice 75 FR 20867, April 21, 2010.

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 26th day of April, 2010.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

/RA/

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