



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 24, 2010

Mr. Jack M. Davis
Senior Vice President and Chief Nuclear Officer
Detroit Edison Company
Fermi 2 - 210 NOC
6400 North Dixie Highway
Newport, MI 48166

SUBJECT: FERMI, UNIT 2 - EXEMPTION FROM CERTAIN LOW-LEVEL WASTE
SHIPMENT TRACKING REQUIREMENTS OF 10 CFR PART 20, APPENDIX G,
SECTION III.E (TAC NO. ME3331)

Dear Mr. Davis:

The Commission has approved the enclosed exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 20, Appendix G, Section III.E for Fermi, Unit 2. This action is in response to your application dated February 5, 2010 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML100430349), for tracking shipments of low-level radioactive wastes that are not acknowledged by the recipient within 20 days after transfer to the shipper. The exemption extends the receipt acknowledgment time period from 20 to 35 days before Detroit Edison Company will have to investigate and report on the status of a low-level radioactive waste shipment.

A copy of the exemption is enclosed and has been forwarded to the Office of the Federal Register for publication.

Sincerely,

A handwritten signature in black ink, appearing to read "Mahesh L. Chawla", is positioned below the word "Sincerely,".

Mahesh L. Chawla, Project Manager
Plant Licensing Branch III-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-341

Enclosure:
Exemption

cc w/encl: Distribution via ListServ

NUCLEAR REGULATORY COMMISSION

DETROIT EDISON COMPANY

FERMI, UNIT2

DOCKET NO. 50-341

EXEMPTION

1.0 BACKGROUND

Detroit Edison Company (DECo) is the licensee and holder of Facility Operating License No. NFP-43 issued for Fermi, Unit 2 (Fermi-2), located in Monroe County, Michigan. The licensee anticipates using rail to ship radioactive waste. From the licensee's experience with radioactive shipments from the decommissioning of Fermi-1, a permanently shutdown nuclear reactor facility located onsite, rail shipments typically take more than 20 days from the site to receipt acknowledgement 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 February 5, 2010 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML100430349), DECo 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 DECo 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. This historical data is further described below and in the Environmental Assessment and Finding of No Significant Impact (75 FR 20867) that was published for the exemption which was granted in May 2010 for Enrico Fermi Atomic Power Plant Unit 1.

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 exceeds 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

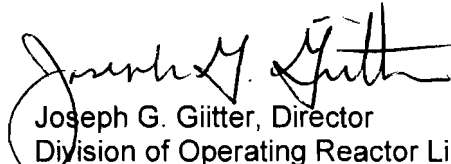
Accordingly, the Commission has determined that, pursuant to 10 CFR 20.2301, the exemption requested by DECo in its letter dated February 5, 2010, is authorized by law and will not result in undue hazards to life or property. Therefore, the Commission hereby grants DECo an exemption to extend the 20-day 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 70707; November 18, 2010).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 24th day of November 2010.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink, appearing to read "Joseph G. Giitter". The signature is fluid and cursive, with the first name "Joseph" and last name "Giitter" clearly distinguishable.

Joseph G. Giitter, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

November 24, 2010

Mr. Jack M. Davis
Senior Vice President and Chief Nuclear Officer
Detroit Edison Company
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/RA/

Mahesh L. Chawla, Project Manager
Plant Licensing Branch III-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-341

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Exemption

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ADAMS Accession Nos. LTR ML102640725 Exemption FRN ML102640730

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