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NRC-2015-0070

February 25, 2016  
NRC-16-0010

U. S. Nuclear Regulatory Commission  
Attention: Rulemakings and Adjudications Staff  
Washington D C 20555-0001

- References:
- 1) Enrico Fermi Atomic Power Plant, Unit 1  
NRC Docket No. 50-16  
NRC License No. DPR-9
  - 2) Fermi 2  
NRC Docket No. 50-341  
NRC License No. NPF-43
  - 3) Advance Notice of Proposed Rulemaking Request for Comments  
Regulatory Improvements for Decommissioning Power Reactors  
NRC Docket ID NRC-2015-0070  
Federal Register Vol. 80, No. 223, RIN 3150-AJ59, November 19, 2015

Subject: Comments on Advance Notice of Proposed Rulemaking on  
Regulatory Improvements for Decommissioning Power Reactors

In Reference 3, the NRC requested comments on the advance notice of proposed rulemaking on Regulatory Improvements for Decommissioning Power Reactors. This letter submits the comments of DTE Electric Company (DTE). DTE is the licensee for the small Fermi 1 liquid metal fast breeder reactor (Reference 1), currently in passive SAFSTOR, and the operating Fermi 2 reactor (Reference 2).

No new commitments are being made in this submittal.

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Should you have any questions or require additional information, please contact Mr. Alan I. Hassoun, Manager – Nuclear Licensing, at (734) 586-4287.

Sincerely



Keith Polson  
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Nuclear Generation

Enclosure: DTE's Comments on Advance Notice of Proposed Rulemaking on  
Regulatory Improvements for Decommissioning Power Reactors

cc: T. Smith, NRC  
P. Lee, NRC Region III  
NRC Project Manager, Fermi 2  
NRC Regional Administrator, Region III  
NRC Resident Inspector, Fermi 2  
Michigan Department of Natural Resources and Environment, Environmental  
Resource Management Division – Radiological Protection Section

**Enclosure to  
NRC-16-0010**

**Fermi 1 NRC Docket No. 50-16  
Operating License No. DPR-9**

**Fermi 2 NRC Docket No. 50-341  
Operating License No. NPF-43**

**DTE's Comments on Advance Notice of Proposed Rulemaking on  
Regulatory Improvements for Decommissioning Power Reactors**

### **DTE's Comments on Advance Notice of Proposed Rulemaking on Regulatory Improvements for Decommissioning Power Reactors**

DTE Electric (DTE) appreciates the opportunity to provide comments on the advanced notice of proposed rulemaking (ANPR) on regulatory improvements for decommissioning power reactors. As a company with one reactor which has been shut down since 1972 and one operating reactor, DTE is interested in any rulemaking involving decommissioning. This letter provides comments on selected aspects of the ANPR in the table below.

<b>Comment Number</b>	<b>ANPR Section</b>	<b>Comment</b>
1	General / All	The focus of the proposed rulemaking is on the transition for operating plants to decommissioning. It will be advantageous to achieve more clarity on the transition and eliminate the need for exemptions during the transition. A graded approach is appropriate, with requirements applying based on plant status and source term. For example, different requirements should apply to Fermi 1, which has been shut down for more than 40 years, has no fuel onsite and a low remaining source term, than should apply to a recently shutdown reactor.
2	General / All	Based on experience with previous rulemakings on decommissioning and orders issued to all decommissioning reactors in the past, the NRC should ensure that new requirements are not inadvertently created for long shutdown reactors that should not apply. The applicability of the updated requirements are proposed to apply to power reactors permanently shut down and defueled and entered into decommissioning, which includes all nuclear power plants licensed under 10 CFR Part 50, including plants previously shutdown. It would be a large and unnecessary burden to implement requirements that never applied to a long shutdown plant. Wording should be carefully crafted to avoid this outcome.
3	FFD-1	Item FFD-1 states that all 10 CFR 50 licensees need to meet 10 CFR 73.55. However, 10 CFR 73 only applies to plants with special nuclear material. A permanently shut down reactor without special nuclear material does not need to meet any requirements in 10 CFR 73.55. As discussed in the general comments 1 and 2 above, this section in the ANPR is focused on the transition from operating to shutdown, without recognizing that some of the requirements being addressed do not apply currently to some shutdown reactors.

Comment Number	ANPR Section	Comment
4	REG-1	Under Item REG-1 (part a), the ANPR asks for feedback about methods for decommissioning. The ENTOMB option is not really useful for reactor decommissioning if the license needs to be terminated within 60 years. Potentially a longer period could be allowed for the ENTOMB option.
5	REG-1	Feedback is also requested regarding the 60 year period under Item REG-1 (part c). The time frame should be revised to allow for 60 years after the last operating reactor on site permanently shuts down. The current rule allows for extension of the 60 years if approved by the NRC. If there are multiple reactors on site, it would be more efficient to decommission them together. Also, a major decommissioning project on a shutdown reactor can be a diversion to the operating plant, depending on how close the plants are, and how inter-twined their support systems are. It would be more efficient for the rule to allow for a co-located reactor to postpone decommissioning until all reactors onsite are shut down and allow the 60 years from the last shutdown, rather than require NRC approval for the deferral.
6	BFP-1	Item BFP-1 asks for feedback regarding whether the backfit rule should apply. DTE thinks the backfit rule should apply to decommissioning reactors. Since the risk of the decommissioning power reactor is less than during operation, the requirement to analyze the change per the backfit rule should apply rather than changes being made without regard for the cost and benefit. Adding regulatory burden should require a cost benefit analysis to ensure it is an advantageous use of resources and does not potentially create an adverse effect.
7	DTF-1 / DTF-2	<p>Regarding decommissioning trust funds in Items DTF-1 and DTF-2, if the amount of money segregated for radiological decommissioning clearly exceeds the amount of money estimated for radiological decommissioning, with margin (e.g. 10%), then part of the radiological decommissioning funds should be available to use for other non-NRC regulated decommissioning activities, such as site restoration or spent fuel management, without needing an exemption. The burden should be on the licensee to clearly demonstrate the adequacy of the remaining radiological decommissioning funding with margin, and report on it in the annual financial assurance reports.</p> <p>DTE agrees that there is a benefit to distinguish between monies in the fund and estimates for NRC required radiological decommissioning and non-NRC required decommissioning activities. That allows clear determination of adequacy of financial assurance for NRC required decommissioning.</p>

Comment Number	ANPR Section	Comment
		However, there are activities that are not clearly NRC regulated decommissioning activities or outside those bounds. Examples include the activities needed to maintain the plant in a safe condition during the transition from operating to decommissioning. If such activities are included in the decommissioning cost estimate, they should be allowed to be funded from the NRC regulated radiological decommissioning fund.
8	DTF-1 / DTF-2	NEI 15-06 has recently been submitted to the NRC for review. It provides guidance on use of the NRC regulated decommissioning fund and therefore addresses many of the same topics as discussed in Items DTF-1 and DTF-2 in the ANPR. DTE agrees with the position in NEI 15-06.
9	GEN-2	Item GEN-2 in the ANPR addresses codifying operator staffing at a permanently shut down and defueled reactor. It would be helpful to have this established for a recently shutdown reactor, so that it doesn't need to be negotiated on a case by case basis. However, if codified, there should be allowance for changes as the plant status changes. Rulemaking should not require an operator staff at a plant such as Fermi 1, which has no active systems performing any safety role while in a passive SAFSTOR condition, nor a minimum shift staffing requirement. Per current Technical Specifications for Fermi 1, specific staff needs to be onsite only when specific activities are being accomplished (e.g. health physics technician when transferring radioactive material).