



[7590-01-P]

**NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. 50-409; NRC-2015-0279]**

**LaCrosseSolutions, LLC; Dairyland Power Cooperative**

**La Crosse Boiling Water Reactor**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Exemption; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a January 16, 2017, request from LaCrosseSolutions, LLC (LS), for the La Crosse Boiling Water Reactor (LACBWR), from the requirement to investigate and report to the NRC when LS does not receive notification of receipt of a shipment, or part of a shipment, of low-level radioactive waste within 20 days after transfer by rail from the LACBWR facility.

LaCrosseSolutions requested that the time period for it to receive acknowledgement that the shipment has been received by the intended recipient be extended from 20 to 45 days to avoid an excessive administrative burden because of operational experience that indicates that rail shipments may take more than 20 days to reach their destination.

**DATES:** [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Please refer to Docket ID **NRC-2015-0279** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2015-0279**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Marlayna G. Vaaler, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-3178, e-mail: [Marlayna.Vaaler@nrc.gov](mailto:Marlayna.Vaaler@nrc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The La Crosse Boiling Water Reactor was an Atomic Energy Commission (AEC) Demonstration Project Reactor that first went critical in 1967, commenced commercial operation in November 1969, and was capable of producing 50 megawatts electric. The LACBWR is located on the east bank of the Mississippi River in Vernon County, Wisconsin, and is co-located with the Genoa Generating Station, which is a coal-fired electrical power plant that is still in operation. The Allis-Chalmers Company was the original licensee; the AEC later sold the plant to the Dairyland Power Cooperative (DPC) and granted it Provisional Operating License No. DPR-45 on August 28, 1973 (ADAMS Accession No. ML17080A423).

The LACBWR permanently ceased operations on April 30, 1987 (ADAMS Accession No. ML17080A422), and reactor defueling was completed on June 11, 1987 (ADAMS Accession No. ML17080A420). In a letter dated August 4, 1987 (ADAMS Accession No. ML17080A393), the NRC terminated DPC's authority to operate the LACBWR under Provisional Operating License No. DPR-45, and granted the licensee a possess-but-not-operate status. By letter dated August 18, 1988 (ADAMS Accession No. ML17080A421), the NRC amended DPC's Provisional Operating License No. DPR-45 to Possession Only License No. DPR-45 to reflect the permanently defueled configuration at the LACBWR.

The NRC issued an order to authorize decommissioning of the LACBWR and approve the licensee's proposed Decommissioning Plan (DP) on August 7, 1991 (ADAMS Accession No. ML17080A454). Because the NRC approved DPC's DP before August 28, 1996, pursuant to section 50.82 of title 10 of the *Code of Federal Regulations* (CFR), the DP is considered the Post-Shutdown Decommissioning Activities Report (PSDAR) for the LACBWR. The PSDAR

public meeting was held on May 13, 1998, and subsequent updates to the LACBWR decommissioning report have combined the DP and PSDAR into the “LACBWR Decommissioning Plan and Post-Shutdown Decommissioning Activities Report” (D-Plan / PSDAR). The DPC constructed an onsite Independent Spent Fuel Storage Installation (ISFSI) under its 10 CFR part 72 general license, and completed the movement of all 333 spent nuclear fuel elements from the Fuel Element Storage Well to dry cask storage at the ISFSI by September 19, 2012 (ADAMS Accession No. ML12290A027). The remaining associated buildings and structures are ready for dismantlement and decommissioning activities.

By order dated May 20, 2016 (ADAMS Accession No. ML16123A073), the NRC approved the direct transfer of Possession Only License No. DPR-45 for the LACBWR from DPC to LS, a wholly-owned subsidiary of EnergySolutions, LLC, and approved a conforming license amendment, pursuant to 10 CFR 50.80, “Transfer of licenses,” and 10 CFR 50.90, “Application for amendment of license, construction permit, or early site permit,” to reflect the change. The order was published in the *Federal Register* on June 2, 2016 (81 FR 35383). The transfer assigns DPC’s licensed possession, maintenance, and decommissioning responsibilities for the LACBWR to LS in order to implement expedited decommissioning at the LACBWR site. Decommissioning of the LACBWR is scheduled to be completed in 2018.

## **II. Request/Action**

By letter dated January 16, 2017 (ADAMS Accession No. ML17018A136), LS requested an exemption from 10 CFR part 20, appendix G, “Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests,” section III.E. for the LACBWR. Section III.E requires that the shipper of any low-level radioactive waste to a land disposal facility must investigate and trace the shipment if the

shipper has not received notification of the shipment's receipt by the disposal facility within 20 days after transfer. In addition, section III.E requires licensees to report such missing shipments to the NRC. Specifically, LS is requesting that the time period for LS to receive acknowledgement that the shipment has been received be extended from 20 to 45 days after transfer for rail shipments from LACBWR.

The NRC's regulations in 10 CFR 20.2301, "Applications for exemptions," allow the Commission to grant exemptions from the requirements of the regulations if it determines the exemption would be authorized by law and would not result in undue hazard to life or property. Inherent to the decommissioning process, large volumes of slightly contaminated debris are generated and require disposal. The licensee transports low-level radioactive waste from LACBWR to distant locations such as the waste disposal facility operated by EnergySolutions in Clive, Utah, and waste processors in Texas. Experience with waste shipments from LACBWR and at other decommissioning power reactor sites indicates that rail transportation time to waste disposal facilities has, in several instances, exceeded the 20-day receipt of notification requirement. In addition, administrative processes at the disposal facility and mail delivery times could further delay the issuance or arrival of the receipt of notification.

### **III. Discussion**

#### **A. The Exemption is Authorized by Law**

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 of 1954, as amended (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 NRC concludes that there is no statutory prohibition on the issuance of the requested exemption and the NRC is authorized to grant the exemption by law.

With respect to compliance with Section 102(2) of the National Environmental Policy Act, 42 USC 4332(2) (NEPA), the NRC staff has determined that the proposed action, namely, the approval of the LS exemption request, is within the scope of the two categorical exclusions listed at 10 CFR 51.22(c)(25)(vi)(B) and 10 CFR 51.22(c)(25)(vi)(C). The categorical exclusion listed at 10 CFR 51.22(c)(25)(vi)(B) concerns approval of exemption requests from reporting requirements and the categorical exclusion listed at 10 CFR 51.22(c)(25)(vi)(C) concerns approval of exemption requests from inspection or surveillance requirements. Therefore, no further analysis is required under NEPA.

#### **B. The Exemption Would Not Result In Undue Hazard to Life or Property**

The NRC finds that the underlying purpose of 10 CFR part 20, appendix G, section III.E is to require licensees to investigate, trace, and report radioactive shipments that have not reached their destination, as scheduled, for unknown reasons. Data from the San Onofre Nuclear Generating Station found that rail shipments took over 16 days on average, and on occasion, took up to 57 days. The NRC acknowledges that, based on the history of low-level radioactive waste shipments from the San Onofre Nuclear Generating Station, the need to investigate and report on shipments that take longer than 20 days could result in an excessive administrative burden on the licensee. For rail shipments, LS will require electronic data tracking system interchange, or similar tracking systems that allow for monitoring the progress of the shipments by the rail carrier on a daily basis.

Because of the oversight and monitoring of radioactive waste shipments throughout the entire journey from the LACBWR to the disposal site, it is unlikely that a shipment could be lost, misdirected, or diverted without the knowledge of the carrier or LS. Furthermore, by extending

the elapsed time for receipt acknowledgment to 45 days before requiring investigations, tracing, 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 NRC finds that extending the receipt of notification period from 20 to 45 days after transfer for the rail shipments described by LS in its January 16, 2017, letter would not result in an undue hazard to life or property. The NRC also finds that the underlying purpose of 10 CFR part 20, appendix G, section III.E will be met.

#### **IV. Conclusions**

Accordingly, the Commission has determined that, pursuant to 10 CFR 20.2301, the exemption is authorized by law and will not result in undue hazard to life or property. Therefore, the Commission hereby grants LaCrosse *Solutions*, LLC an exemption from 10 CFR part 20, appendix G, section III.E to extend the requirement to extend the receipt of notification period from 20 days to 45 days after transfer by rail of low-level radioactive waste from the LACBWR facility.

Dated at Rockville, Maryland, this 2nd day of May 2017.

For the Nuclear Regulatory Commission.

John R. Tappert, Director,  
Division of Decommissioning, Uranium Recovery,  
and Waste Programs,  
Office of Nuclear Material Safety and Safeguards.

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