



NUCLEAR REGULATORY COMMISSION

[Docket No. 50-305; NRC-2023-0116]

Kewaunee Solutions, Inc; Kewaunee Power Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption in response to a request dated March 29, 2023, from Kewaunee Solutions, Inc. (Kewaunee Solutions), for the Kewaunee Power Station (KPS) facility, that permits Kewaunee Solutions to investigate, trace, and report to the NRC any low-level radioactive waste shipment or part of a shipment for which acknowledgement of receipt is not received by EnergySolutions, LLC within 45 days of transfer, rather than the 20 day requirement that is currently delineated in the NRC's regulations.

DATES: The exemption was issued on July 5, 2023.

ADDRESSES: Please refer to Docket ID **NRC-2023-0116** 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 Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2023-0116**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@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 <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number

for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Karl J. Sturzebecher, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-8534, email: Karl.Sturzebecher@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: July 14, 2023.

For the Nuclear Regulatory Commission.

Shaun M. Anderson,

Chief,

Reactor Decommissioning Branch,

Division of Decommissioning, Uranium

Recovery and Waste Programs,

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NUCLEAR REGULATORY COMMISSION

Docket No. 50-305

Kewaunee Solutions, Inc

Kewaunee Power Station

Exemption from Certain Low-Level Waste Shipment Tracking Requirements

I. Background

The U.S. Nuclear Regulatory Commission (NRC, the Commission) license for Kewaunee Power Station (KPS) facility is Renewed Facility Operating License (RFOL) No. DPR-43. EnergySolutions, LLC (EnergySolutions) is the licensed holder of No. DPR-43 and operator for decommissioning, while its subsidiary Kewaunee Solutions, Inc. (Kewaunee Solutions) would continue to hold title to and ownership of any real estate encompassing the KPS site, any improvements to the site, and title to and ownership of spent nuclear fuel. The RFOL provides, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect. The KPS facility is located about 90 miles North-East of the city of Milwaukee, Wisconsin.

Kewaunee Solutions is currently decommissioning the KPS facility, which consists of a permanently shutdown and defueled pressurized water reactor design and a dry cask Independent Spent Fuel Storage Installation. Inherent to the plans for this decommissioning process, large volumes of low-level radioactive waste are generated. This low-level radioactive waste requires processing and disposal or only disposal. KPS will transport, by truck or by mixed mode shipments (for example, by a combination of truck and rail), low-level radioactive waste from the facility to locations such as the waste disposal facility owned and operated by EnergySolutions in Clive, Utah.

II. Request/Action

By letter dated March 29, 2023 (Agencywide Document Access and Management System Accession No. ML23088A275), Kewaunee Solutions requested an exemption from certain requirements of title 10 of the *Code of Federal Regulations* (10 CFR), part 20, appendix G, section III.E, “Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests.” Specifically, Kewaunee Solutions requests an exemption from the requirement to investigate and report to the NRC when notification of receipt of a shipment, or part of a shipment, of low-level radioactive waste is not received within 20 days after transfer. Kewaunee Solutions is requesting that the time to receive acknowledgement that a shipment has been received by the intended recipient be extended from 20 days to 45 days for low-level radioactive waste shipments from the KPS facility. Further, Kewaunee Solutions states that the requested exemption would be applicable to shipments from KPS by rail or by mixed transportation modes, such as a combination of truck/rail shipments.

III. Discussion

The NRC’s regulations at 10 CFR 20.2301, “Applications for exemptions,” allow the Commission to grant exemptions from the requirements of the regulations in 10 CFR part 20, “Standards for Protection Against Radiation,” if it determines the exemption is authorized by law and would not result in undue hazard to life or property.

A. The Exemption is Authorized by Law

The requested exemption from 10 CFR part 20, appendix G, section III.E would extend the receipt acknowledgment period from 20 days to 45 days before Kewaunee Solutions would have to investigate, trace, and report on the status of a low-level radioactive waste shipment being transported from KPS to a licensed low-level radioactive waste processing or land disposal facility. As stated above, 10 CFR 20.2301 allows the NRC to grant exemptions from the requirements of 10 CFR part 20 when, in part, the exemptions are authorized by law. 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. The NRC staff determined that the requested exemption is therefore permissible under the Atomic Energy Act of 1954, as amended, and other regulatory requirements. Therefore, the NRC finds that the requested exemption is authorized by law.

B. The Exemption Presents No Undue Risk to Public Health and Safety.

The purpose of 10 CFR part 20, appendix G, section III.E is to require licensees to investigate, trace, and report on low-level radioactive waste shipments that have not reached their destination, as scheduled, for unknown reasons. In its exemption request, Kewaunee Solutions stated that ample industry experience in shipping low-level radioactive waste in support of decommissioning has demonstrated that shipments often take longer than 20 days. Based on past reports and industry experience, the NRC staff agrees that delays due to rail scheduling are likely to recur.

Further, Kewaunee Solutions stated that its exemption request is similar to others that have previously been approved by the NRC for Fort Calhoun Station (ML20162A155), La Crosse Boiling Water Reactor (ML17124A210), and Zion Nuclear Power Station (ML15008A417). The NRC staff reviewed these other exemption requests and notes that all of the licensees that requested and were granted this exemption, previously had at least once missed 20-day receipt notification window. The NRC staff conclude that due to the location of KPS to low level waste disposal facilities and the use or the rail system, it is likely that without the exemption, Kewaunee Solutions would be in a similar situation to the licensees referenced above due to the trail transport system practices. The NRC staff agrees that these exemption requests are similar to the exemption requested by Kewaunee Solutions.

In its exemption request, Kewaunee Solutions stated that it will be transporting low-level radioactive waste from the KPS facility to distant locations such as the waste disposal facilities owned by EnergySolutions in Clive, Utah. KPS plans to ship most of

the waste to these disposal facilities or intermediate processors by rail. Kewaunee Solutions expressed that industry experience from other decommissioning projects shipping large quantities of low level radwaste to offsite disposal facilities, has shown that rail and mixed mode shipments can routinely take longer than 20 days, resulting in an excessive administrative burden due to the required investigations and reporting. Further, Kewaunee Solutions stated that there are various reasons for these delays that cannot be anticipated or avoided and that are beyond the control of the shipper.

Kewaunee Solutions further stated that, for rail shipments from KPS, a tracking system will be utilized that allows daily monitoring of a shipment's progress to its destination. Shipping procedures prescribe the expectations for tracking and communications during transit. Kewaunee Solutions stated that it will request daily updates be provided identifying the location of the shipment from the appropriate carrier. As a result, Kewaunee Solutions explains that it will be unlikely that a shipment could be lost, misdirected, or diverted without the knowledge of the carrier or Kewaunee Solutions personnel. According to Kewaunee Solutions, exceeding the 20-day requirement results in the "excessive administrative burden" of investigating and reporting, even though the shipments continue to be under requisite controls.

The NRC staff notes that in terms of potential effects on a member of the public, the primary cause of low-level radioactive waste shipment delays is coordination with the rail carriers. When these delays happen, the shipment is generally within a railyard and not near a member of the public or a public place. The only way a low-level radioactive waste shipment would remain in a public place for an unusual amount of time is if there was a problem with the transport vehicle or the rail system itself. In that instance, the NRC staff notes that all low-level radioactive waste shipments from KPS are required to be compliant with the U.S. Department of Transportation (DOT) and NRC requirements for transportation of low-level radioactive packaging, placarding, and allowable radiation levels at the surface of the package for health and safety purposes during transit, including during switchyard staging. Furthermore, the shipments are required to be

under control of the shipper at all times, tracked by the licensee, and periodically monitored by the licensee, as needed. Therefore, there are no potential health and safety concerns associated with this material sitting in a switchyard for an extended period of time. In the unlikely event that a low-level waste shipments were to remain in a public place for an extended period of time, adherence to the DOT transportation requirements would also ensure that there would be no health and safety concerns regarding potential dose to the public.

Based on the history of low-level radioactive waste shipments from other Nuclear Power Plants in decommissioning and the lack of potential health or safety concerns associated with these shipments sitting in a switchyard for an extended period of time, the NRC staff concludes that the need to investigate, trace, and report on low-level radioactive waste shipments that take longer than 45 days is appropriate.

Additionally, as indicated in the exemption request, for truck and rail shipments from Kewaunee Solutions, KPS will use a tracking system that allows daily monitoring of a shipment's progress to its destination and KPS shipping procedures prescribe the expectations for tracking and communications during transit. The NRC staff notes that this will allow for monitoring the progress of shipments on a daily basis, if needed, in lieu of the 20-day requirement, and will initiate an investigation as provided for by 10 CFR part 20, appendix G, section III.E after 45 days. Because of this oversight and the ability to monitor low-level radioactive waste shipments throughout the entire journey from KPS to a disposal or processing facility, the staff concludes that it is unlikely that a shipment could be lost, misdirected, or diverted without the knowledge of the carrier or Kewaunee Solutions and that, therefore, there is no potential health or safety concern presented by the requested exemption. Furthermore, by extending the time for receipt acknowledgment to 45 days before requiring investigations, tracing, and reporting, a reasonable upper limit on shipment duration is maintained in the event that a breakdown of normal tracking systems was to occur.

Based on the above, the NRC staff finds that the requested exemption would not result in undue hazard to life or property.

C. Environmental Considerations

With respect to compliance with section 102(2) of the National Environmental Policy Act, as amended, 42 U.S.C. 4332(2) (NEPA), the NRC staff has determined that the proposed action, the approval of the Kewaunee Solutions exemption request, is within the scope of the categorical exclusion listed at 10 CFR 51.22(c)(25). The proposed granting of the exemption from certain requirements of the NRC's regulations at 10 CFR part 20, appendix G, section III.E would: (i) present no significant hazards considerations; (ii) would not result in a significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) not result in a significant increase in individual or cumulative public or occupational radiation exposure; (iv) have no significant construction impact; (v) does not present a significant increase in the potential for or consequences from radiological accidents. Additionally, the requirements from which an exemption is sought involves reporting requirements under 10 CFR 51.22(c)(25)(vi)(B) as well as inspection or surveillance requirements under 10 CFR 51.22(c)(25)(vi)(C). Given the applicability of relevant categorical exclusions, no further analysis is required under NEPA.

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, effective immediately, the Commission hereby grants Kewaunee Solutions an exemption from 10 CFR part 20, appendix G, section III.E to extend the receipt of notification period from 20 days to 45 days after transfer for rail or mixed-mode

shipments of low-level radioactive waste from KPS to a licensed land disposal or processing facility.

Dated: July 5, 2023.

For the Nuclear Regulatory Commission.

/RA/

Jane E. Marshall, Director,
Division of Decommissioning, Uranium Recovery,
and Waste Programs
Office of Nuclear Material Safety
and Safeguards.

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