



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

July 14, 2020

Mr. Peter Dietrich  
Senior Vice President and  
Chief Nuclear Officer  
DTE Electric Company  
Fermi 2 – 260 TAC  
6400 North Dixie Highway  
Newport, MI 48166

SUBJECT: FERMI 2 – EXTENSION OF EXEMPTION FROM SPECIFIC REQUIREMENTS  
OF 10 CFR PART 26 (EPID L-2020-LLE-0109 [COVID-19])

Dear Mr. Dietrich:

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has approved the requested extension of the exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 26, "Fitness for Duty Programs," Section 26.205, "Work hours." This action is in response to your application dated July 6, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20188A339), as supplemented by letter dated July 11, 2020 (ADAMS Accession No. ML20193A003), which cited an NRC letter dated March 28, 2020 (ADAMS Accession No. ML20087P237), describing a process to request expedited review of certain exemptions from 10 CFR Part 26 during the Coronavirus Disease 2019 (COVID-19) Public Health Emergency (PHE).

In your application dated July 6, 2020, you provided the following information:

- A statement that you can no longer meet the work-hour controls of 10 CFR 26.205(d) for certain positions;
- A list of positions for which you will maintain current work-hour controls under 10 CFR 26.205(d)(1)-(d)(7);
- The date and time when you will begin implementing site-specific COVID-19 PHE fatigue-management controls for personnel specified in 10 CFR 26.4(a);
- A statement that your site-specific COVID-19 PHE fatigue-management controls are consistent with the constraints outlined in the NRC's March 28, 2020 letter; and
- A statement that you have established alternative controls for the management of fatigue during the period of the exemption and, at a minimum, the controls ensure that, for individuals subject to these alternative controls:
  - Individuals will not work more than 16 work hours in any 24-hour period and not more than 86 work hours in any 7-day period, excluding shift turnover;

- A minimum 10-hour break is provided between successive work periods;
- 12-hour shifts are limited to not more than 14 consecutive days;
- A minimum of 6 days off are provided in any 30-day period; and
- Requirements have been established for behavioral observation and self-declaration during the period of the exemption.

In your supplemental letter dated July 11, 2020, you provided additional information pertaining to the control of cumulative fatigue during the initial exemption period and the requested extension period. Specifically, for the categories of personnel specified in 10 CFR 26.4(a)(1)-(4), you provided information concerning shift durations, patterns of days on and off, maximum average work hours of individuals in the work group during the exemption period, the number of individuals in the work group, and how many of those individuals had received at least two consecutive days off during the past 14 days. You also provided information concerning behavioral observations and self-declarations of fatigue during the initial exemption period. The NRC staff considered this information to assess the current potential for cumulative fatigue within the groups of personnel identified in the application, as supplemented. This information was considered in conjunction with the information which you provided that is relevant to the potential for, and control of, cumulative fatigue during the requested extension of the exemption period. Specifically, you requested an extension of the exemption through August 10, 2020, and provided information concerning the schedule of days on and off that personnel would work during the requested extension period, as well as your plans to conduct a fatigue awareness stand down prior to the requested extension period.

Based on the information provided, the NRC staff finds that the technical basis for an exemption described in the NRC's March 28, 2020 letter is applicable to your specific request. Additionally, the staff finds that the proposed controls for cumulative fatigue are adequate for the requested extension period and that the requested extension can be granted, contingent upon licensee implementation of the work schedules described in the supplemental letter dated July 11, 2020.

Pursuant to 10 CFR 26.9, "Specific exemptions," upon application of any interested person or on its own initiative, the Commission may grant such exemptions from the requirements of 10 CFR Part 26 as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

The NRC staff has reviewed the requested exemption, as extended, and determined that it is permissible under the Atomic Energy Act of 1954, as amended, and that no other prohibition of law exists to preclude the activities that would be authorized by the exemption. Therefore, the NRC finds that the requested exemption, as extended, is authorized by law.

The underlying purpose of 10 CFR 26.205(d) is to prevent impairment from fatigue due to duration, frequency, or sequestering of successive shifts. Based on the evaluation provided in the NRC's March 28, 2020, letter and the criteria discussed above, no new accident precursors are created by utilizing whatever licensee staff resources may be necessary or available during the term of this exemption to respond to a plant emergency and to ensure that the plant maintains a safe and secure status. Therefore, the probability of postulated accidents is not increased. Also, the consequences of postulated accidents are not increased because there is no change in the types of accidents previously evaluated. The requested exemption, as extended, would allow the utilization of licensee staff resources as may be necessary to maintain safe operation of the plant and to respond to a plant emergency. Therefore, the NRC finds that the requested exemption, as extended, will not endanger life or property.

The requested exemption, as extended, would allow the utilization of licensee security staff resources as may be necessary to ensure the common defense and security. Additionally, although nuclear security personnel utilized alternate controls during the initial exemption period, you stated that nuclear security personnel will not utilize them in the extension period. After reviewing the alternate controls and supplemental information provided, the NRC finds that there is no impact on the common defense and security from granting the requested exemption, as extended.

Due to the impacts that the COVID-19 PHE has had on the licensee's ability to comply with the work-hour controls of 10 CFR 26.205(d), the importance of maintaining the operations of Fermi 2, and the controls the licensee has established, the NRC finds that granting the requested exemption, as extended, is in the public interest.

NRC approval of this exemption request, as extended, is categorically excluded under 10 CFR 51.22(c)(25) and there are no special circumstances present that would preclude reliance on this exclusion. The NRC staff has determined, per 10 CFR 51.22(c)(25)(vi)(I), that the requirements from which the exemption is sought are of an administrative nature. The NRC staff also determined that approval of this exemption involves no significant hazards consideration because it does not authorize any physical changes to the facility or any of its safety systems, change any of the assumptions or limits used in the licensee's safety analyses, or introduce any new failure modes. There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite because the exemption does not affect any effluent release limits as provided in the licensee's technical specifications or by the regulations in 10 CFR Part 20, "Standards for Protection Against Radiation." There is no significant increase in individual or cumulative public or occupational radiation exposure because the exemption does not affect limits on the release of any radioactive material or the limits provided in 10 CFR Part 20 for radiation exposure to workers or members of the public. There is no significant construction impact because the exemption does not involve any changes to a construction permit. There is no significant increase in the potential for or consequences from radiological accidents because the exemption does not alter any of the assumptions or limits in the licensee's safety analysis. In addition, the NRC staff determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need to be prepared in connection with the approval of this exemption request, as extended.

Based on the above, the NRC finds that the exemption, as extended, (1) is authorized by law, (2) will not endanger life or property or the common defense and security, and (3) is otherwise in the public interest.

P. Dietrich

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The exemption, as extended, is effective upon issuance until 12:00 a.m. on August 11, 2020.

Sincerely,

Craig G. Erlanger, Director  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket No. 50-341

cc: Listserv

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 DATED JULY 14, 2020

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**ADAMS Accession No.: ML20192A180**

**\*via e-mail**

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