



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

November 18, 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 – EXEMPTION FROM SELECT REQUIREMENTS OF 10 CFR PART 26
(EPID L-2020-LLE-0187 [COVID-19])

Dear Mr. Dietrich:

The U.S. Nuclear Regulatory Commission (NRC) has approved the requested 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,” for Fermi Unit 2 (Fermi 2). This action is in response to the DTE Electric Company (DTE, or the licensee) application dated November 10, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20315A373), which cited the March 28, 2020 (ADAMS Accession No. ML20087P237), letter from Mr. Ho Nieh 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).

The application provided the following information:

- A statement that Fermi’s previous Part 26 exemption expired on August 11, 2020 and Fermi 2 has been following the normal work hours since that time.
- A statement that DTE can no longer meet the work-hour controls of 10 CFR 26.205(d) for certain positions;
- A list of positions for which DTE will implement alternative work-hour controls upon the NRC granting the requested exemption. From this, the NRC determined the positions for which DTE will maintain current work-hour controls under 10 CFR 26.205(d)(1)-(d)(7) and the positions for which DTE is requesting the exemption;
- The date when DTE will begin implementing site-specific COVID-19 PHE fatigue-management controls for personnel specified in 10 CFR 26.4(a);
- A statement that DTE’s site-specific COVID-19 fatigue-management controls are consistent with the constraints outlined in the March 28, 2020, letter; and

- A statement that DTE will establish alternative controls for the management of fatigue during the period of the exemption and that, 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 requested exemption.

Therefore, the NRC finds that the technical basis for an exemption described in the March 28, 2020, letter is applicable to the DTE application.

Section 26.9, "Specific exemptions," of 10 CFR allows the NRC to grant 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 determined that the requested exemption is 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.

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 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 will not endanger life or property.

This exemption request is independent from the expired exemption (ADAMS Accession No. ML20192A180) because sufficient time has elapsed during which DTE has implemented work hour controls that manage the potential for cumulative fatigue. The requested exemption would allow the utilization of licensee security staff resources as may be necessary to ensure the common defense and security. Therefore, the NRC finds that the requested exemption will not endanger the common defense and security.

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 DTE, and the controls the licensee has established, the NRC finds that the requested exemption is in the public interest.

Granting the requested exemption is categorically excluded under 10 CFR 51.22(c)(25) and there are no extraordinary circumstances present that would preclude reliance on this exclusion. The NRC staff determined, per 10 CFR 51.22(c)(25)(vi)(I), that the requirements from which the

exemption is sought involve other requirements of an administrative, managerial, or organizational 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, does not authorize changes to any of the assumptions or limits used in the licensee's safety analyses, and does not 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 this 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 this exemption does not affect the 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 this 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 be prepared in connection with the approval of this exemption request.

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

This exemption is effective from November 19, 2020, through January 17, 2021.

Sincerely,

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

Docket No. 50-341

cc: Listserv

SUBJECT: FERMIL2 – EXEMPTION FROM SELECT REQUIREMENTS OF 10 CFR PART 26 (EPID L-2020-LLE-0187 [COVID-19]) DATED NOVEMBER 18, 2020

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***via e-mail**

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