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NRC-20-0071

10 CFR 73.5

U.S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, DC 20555-0001

Fermi 2 Power Plant
NRC Docket No. 50-341
NRC License No. NPF-43

Subject: Fermi Nuclear Plant, Unit 2, Request for Exemption from the Annual Force on Force Training Requirements of 10 CFR 73, Appendix B, Section VI, Due to the COVID-19 Public Health Emergency

- References:**
- 1) DTE Electric Company letter to NRC, NRC-20-0037, "Fermi Nuclear Plant, Unit 2, Request for Exemption from the Annual Force on Force Training Requirements of 10 CFR 73, Appendix B, Section VI, Due to the COVID-19 Public Health Emergency," dated August 6, 2020 (ML20219A178)
 - 2) NRC letter to DTE Electric Company, "Fermi 2 – Temporary Exemption from the Annual Force-on-Force Training Requirements of 10 CFR Part 73, Appendix B, 'General Criteria for Security Personnel,' Section VI (EPID L-2020-LLE-0128) [COVID-19]," dated September 10, 2020 (ML20226A116)
 - 3) NRC Letter from H. Nieh to NEI, "Updated Guidance for Licensees that Request Exemptions from the Calendar Year 2020 Annual Licensee-Conducted Force on Force Requirement in Part 73, Appendix B, Section VI During the Coronavirus Disease 2019 Public Health Emergency," dated October 13, 2020 (ML20273A117)

On January 31, 2020, the U.S. Department of Health and Human Services declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the Coronavirus Disease 2019 (COVID-19). On March 10, 2020, the Governor of the State of Michigan declared a state of emergency. In addition, on March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic and, on March 13, 2020, the President of the United States of America declared the COVID-19 pandemic a national emergency.

In response to these declarations and in accordance with the DTE Electric Company (DTE) corporate pandemic response plan, by letter dated August 6, 2020 (Reference 1), a temporary exemption from 10 CFR 73, Appendix B, Subsection C.3.(1)(1), regarding annual force-on-force (FOF) exercises, was requested for Fermi Unit 2 (Fermi 2). The exemption was necessary because isolation protocols (e.g., social distancing, group size limitations, self-quarantining, etc.) restricted activities associated with conducting annual FOF exercises, and were needed to maintain a healthy workforce during the pandemic. The NRC provided approval for the temporary exemption by letter dated September 10, 2020 (Reference 2). The approved temporary exemption expires December 31, 2020.

At the time of submittal for the temporary exemption request the duration of the PHE was discussed as “not currently known,” and therefore the exemption was requested to be in effect until 90 days after the PHE is ended, or until December 31, 2020, whichever occurred first. As of the date of this letter, the PHE has not ended and recent trends indicate the PHE is unlikely to end prior to the end of 2020 and the expiration of the temporary exemption. For example, the number of new daily COVID-19 cases in Michigan was fairly constant from the period of July through the beginning of October. Since then, the number of new daily COVID-19 cases in Michigan has increased by approximately five times the average of the July through early October period and continues to rise. The number of new daily COVID-19 cases in Monroe County, where Fermi 2 is located, has followed a similar trend. The Fermi 2 security force has had approximately 81 individuals placed in quarantine since the start of the PHE and has seen an increase in the number of new COVID-19 cases and individuals quarantined concurrent with the increases seen at the county and state levels. Quarantine and isolation protocols at Fermi 2 continue to be required to maintain a healthy workforce. For these reasons, the PHE continues to impact the ability of Fermi 2 to conduct annual FOF exercises.

As a result, in accordance with the guidance provided by the NRC (Reference 3), Fermi 2 requests a one-time exemption from conducting 2020 annual FOF exercises as required by 10 CFR 73, Appendix B, Section VI, Subsection C.3.(1)(1), which states the following:

Each member of each shift who is assigned duties and responsibilities required to implement the safeguards contingency plan and licensee protective strategy participates in at least one (1) tactical response drill on a quarterly basis and one (1) force-on-force exercise on an annual basis.

This one-time exemption would supersede the previously approved temporary exemption. Approval of this exemption will continue to support the isolation protocols necessary to protect essential site personnel. These restrictions are needed to ensure personnel are isolated from the COVID-19 disease and remain capable of maintaining plant security.

The proposed one-time exemption will apply specifically to security personnel that the approved temporary exemption applied to, i.e., those who have previously demonstrated proficiency and are currently qualified in accordance with 10 CFR Part 73, Appendix B, Section VI, “Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties.” Due to the rigorous nature of Fermi 2 security personnel training programs, which

consists of regularly scheduled training activities to include weapons training, contingency response drills and exercises, and demonstrated acceptable performance of day-to-day job activities (for example, detection and assessment, patrols, searches, and defensive operations), it is reasonable to conclude that impacted security personnel will continue to maintain their proficiency.

Additionally, in order to ensure impacted security personnel maintain the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities and thus maintain contingency response readiness, Fermi 2 will continue to conduct quarterly tactical response drills, including tabletop exercises. Fermi 2 will also maintain a list of the names of the individuals who will not meet the requalification requirements and will include the dates of the last qualification.

Part 73.5 of 10 CFR, Specific exemptions, states that the NRC may grant exemptions from the requirements of the regulations of this part provided three conditions are met. They are:

- 1) The exemptions are authorized by law,
- 2) The exemptions will not endanger life or property or the common defense and security, and
- 3) The exemptions are otherwise in the public interest.

DTE has evaluated the requested exemption against the criteria of 10 CFR 73.5 and determined the criteria are satisfied as described below.

- 1) This exemption is authorized by law.

The security training requalification requirements in Appendix B to Part 73 are not required by any statute. The requested exemption is authorized by law in that no law precludes the activities covered by this exemption request. Granting of the request does not result in a violation of the Atomic Energy Act of 1954, as amended.

- 2) This exemption will not endanger life or property or the common defense and security.

The requested exemption will not endanger life or property or the common defense and security. The requested exemption is a one-time exemption to allow deferring of security training requalification requirements. DTE had scheduled these requalification activities to comply with the regulation. However, these activities must be exempted for the year 2020 to allow implementation of the DTE pandemic plan mitigation strategies. These strategies serve the public interest by ensuring adequate staff isolation and maintaining staff health to perform their job function actions during the COVID-19 pandemic.

The proposed exemption is related only to the conduct of annual FOF exercises and does not change physical security plans or the defensive strategy. Security personnel impacted by this exemption are currently satisfactorily qualified on all required tasks. In addition, security personnel are monitored regularly by supervisory personnel and have implemented controls as identified above. Therefore, granting the requested one-time

exemption will not endanger or compromise the common defense or security, or safeguarding of Fermi 2.

- 3) This exemption is otherwise in the public interest.

The DTE pandemic response plan is based on NEI 06-03, "Nuclear Sector Coordination Council, Influenza Pandemic Threat Summary and Planning, Preparation, and Response Reference Guide," which recommends isolation strategies such as sequestering, use of super crews or minimum staffing as well as social distancing, group size limitations and self-quarantining, in the event of a pandemic, to prevent the spread of the virus to the plant. NEI 06-03 provides other mitigation strategies that serve the public interest during a pandemic by ensuring adequate staff is isolated from the pandemic and remains healthy to perform their job function.

Keeping Fermi 2 in operation during the pandemic will help to support the public need for reliable electricity supply to cope with the pandemic. As the US Departments of Homeland Security and Energy have stated in their guidance, the electric grid and nuclear plant operation make up the nation's critical infrastructure similar to the medical, food, communications, and other critical industries. If the plant operation is impacted because it cannot comply with the security training requalification requirements while isolation activities are in effect for essential crew members, the area electrical grid would lose this reliable source of baseload power. In addition, Fermi 2 personnel could face the added transient challenge of shutting down the plant and possibly not restarting it until the pandemic passes. This does not serve the public interest in maintaining a safe and reliable supply of electricity.

DTE has determined that the exemption involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite; that there is no significant increase in individual or cumulative public or occupational radiation exposure; that there is no construction impact; and that there is no significant increase in the potential for or consequences from a radiological accident. Furthermore, the requirements for which an exemption is being requested involve security training requalification requirements. Accordingly, the proposed exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of this proposed exemption request.

No new commitments are being made in this submittal.

Should you have any questions or require additional information, please contact Mr. Greg Anderson, Manager – Nuclear Security, at (734) 586-1527.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Dietrich', written in a cursive style.

Peter Dietrich
Senior Vice President and Chief Nuclear Officer

cc: NRC Project Manager
NRC Resident Office
Regional Administrator, Region III