

Peter Dietrich
Senior Vice President and Chief Nuclear Officer

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May 17, 2021
NRC-21-0031

10 CFR 50.12
10 CFR 50, Appendix E

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: Request for Exemption from 10 CFR 50, Appendix E, Biennial Emergency Preparedness Exercise Requirements Due to COVID-19 Pandemic

- References:
- 1) NRC Letter from H. Nieh and R. Lewis to NEI, "U.S. Nuclear Regulatory Commission Planned Actions Related to Emergency Preparedness Biennial Exercise Requirements for all Licensees During the Coronavirus Disease 2019 Public Health Emergency," dated May 14, 2020, (ML20120A003).
 - 2) DTE letter NRC-20-0061, "Submittal of 2020 Emergency Preparedness Exercise Scenario," dated October 14, 2020 (ML20288A710 & ML20288A711).
 - 3) DTE letter NRC-20-0072, "Request for One-Time Exemption from 10 CFR 50, Appendix E, Biennial Emergency Preparedness Exercise Requirements Due to COVID-19 Pandemic," dated November 12, 2020 (ML20317A203).
 - 4) NRC letter from Craig Erlanger to Peter Dietrich, "Fermi Unit 2 – Temporary Exemption from Biennial Emergency Preparedness Exercise Frequency Requirements of 10 CFR Part 50, Appendix E, Sections IV.F.2.b and IV.F.2.c (EPID L-2020-LLE-0188 [COVID-19])" dated December 8, 2020, (ML20332A179).

In accordance with 10 CFR 50.12, "Specific exemptions," DTE Electric Company (DTE) requests an exemption for Fermi Unit 2 (Fermi 2) from the requirements of 10 CFR 50, Appendix E, Sections IV.F.2.b and IV.F.2.c. Specifically, DTE requests a scheduler exemption to postpone the full-participation biennial emergency preparedness (EP) exercise until the end of calendar year 2021.

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.

Consequently, and consistent with NRC guidance (Reference 1), DTE requested an exemption to postpone the Fermi 2 full-participation biennial EP exercise that was originally scheduled in Reference 2 for December 15, 2020 until July 27, 2021 at the latest, as described in Reference 3. Reference 4 provided the NRC approval of the requested exemption.

A resurgence in COVID-19 in Michigan and the area immediately surrounding Fermi 2 has led to the new exemption request in this letter. In response to current COVID-19 conditions and in accordance with the DTE corporate pandemic response plan, Fermi 2 has modified some site activities due to isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) and also anticipates the possibility of isolation of required station personnel to maintain necessary staffing levels. These isolation activities have resulted in the inability to complete the biennial EP exercise. In addition, the State of Michigan along with Monroe and Wayne Counties have communicated to DTE that they have concerns with supporting the Fermi 2 biennial EP exercise and maintaining protection of their staff during the current COVID-19 pandemic response.

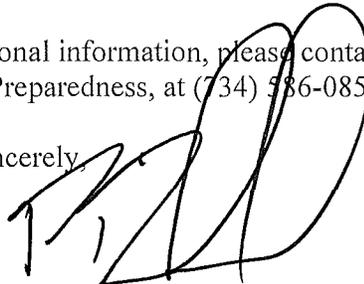
As a result, DTE requests an exemption to postpone the Fermi 2 full-participation biennial EP exercise until the end of calendar year 2021. Enclosure 1 provides a detailed description and assessment of the proposed exemption. Enclosures 2, 3, and 4 provide letters of support for this exemption from the State of Michigan, Monroe County, and Wayne County respectively.

DTE requests approval of this exemption request as soon as practicable but no later than July 27, 2021.

No new commitments are being made in this submittal.

Should you have any questions or require additional information, please contact Mr. Allen Mann, Manager – Radiological Emergency Response Preparedness, at (734) 586-0852.

Sincerely,



Peter Dietrich
Senior Vice President and Chief Nuclear Officer

Enclosures:

1. Request for an Exemption from 10 CFR 50, Appendix E, Biennial Emergency Preparedness Exercise Requirement
2. Letter of Support from State of Michigan
3. Letter of Support from Monroe County
4. Letter of Support from Wayne County

cc: NRC Project Manager
NRC Resident Office
Regional Administrator, Region III
Michigan Department of Environment, Great Lakes, and Energy

**Enclosure 1 to
NRC-21-0031**

**Fermi 2 NRC Docket No. 50-341
Operating License No. NPF-43**

**Request for an Exemption from 10 CFR 50, Appendix E, Biennial Emergency Preparedness
Exercise Requirement**

1.0 SUMMARY DESCRIPTION

In accordance with 10 CFR 50.12, “Specific exemptions,” paragraph (a)(2)(v), and the NRC guidance in Reference 1, DTE Electric Company (DTE) requests an exemption from the requirements of 10 CFR 50, Appendix E, Sections IV.F.2.b and IV.F.2.c. Specifically, DTE requests a schedular exemption to postpone the Fermi Unit 2 (Fermi 2) full-participation biennial emergency preparedness (EP) exercise until the end of calendar year (CY) 2021.

This temporary exemption supports the continued implementation of the isolation activities (e.g., social distancing, group size limitations, self-quarantining, etc.) to protect required Emergency Response Organization (ERO) personnel in response to the Coronavirus Disease 2019 (COVID-19) virus. These activities are needed to ensure DTE and supporting state and local government personnel are isolated from the COVID-19 virus and remain capable of executing the functions of the emergency response organization, as described in the Fermi 2 emergency plan, as well as other non-nuclear health and safety functions for the benefit of the public.

2.0 BACKGROUND

10 CFR 50, Appendix E, Section IV.F.2.b states, “Each licensee at each site shall conduct a subsequent exercise of its onsite emergency plan every 2 years.” 10 CFR 50, Appendix E, Section IV.F.2.c states, “Offsite plans for each site shall be exercised biennially with full participation by each offsite authority having a role under the radiological response plan. Where the offsite authority has a role under a radiological response plan for more than one site, it shall fully participate in one exercise every two years and shall, at least, partially participate in other offsite plan exercises in this period.”

The Fermi 2 CY 2020 biennial EP exercise with Offsite Response Organization (ORO) participation was originally scheduled for December 15, 2020 (Reference 2). In Reference 3, DTE requested an exemption to postpone the Fermi 2 full-participation biennial EP exercise until July 27, 2021 at the latest. Reference 4 provided the NRC approval of the requested exemption. In accordance with the guidance in Reference 5, the July 27, 2021 due date was chosen to meet the 35-month period since the previous performance of the EP exercise on August 28, 2018.

Subsequently, there has been a resurgence in COVID-19 in Michigan and the area immediately surrounding Fermi 2. In addition, the State of Michigan along with Monroe and Wayne Counties have communicated to DTE that they have concerns with supporting the Fermi 2 biennial EP exercise and maintaining protection of their staff during the current COVID-19 pandemic response. Based on these concerns, the needed response to the pandemic, and the uncertainty of the future in this matter, DTE is requesting an exemption to postpone the Fermi 2 full-participation biennial EP exercise until the end of CY 2021 (i.e., December 31, 2021).

3.0 TECHNICAL JUSTIFICATION OF ACCEPTABILITY

The U.S. Centers for Disease Control (CDC) has issued recommendations advising “social distancing” to prevent the spread of the COVID-19 virus. DTE has implemented isolation activities such as self-quarantining, group size limitations and social distancing to protect

required site personnel. Ideally, this will limit the spread of the virus among the station staff. Similar isolation activities are also needed to limit the spread of COVID-19 among off-site personnel, supporting state and local governments, so they remain capable of executing the functions of the emergency response organization, as described in the Fermi 2 emergency plan.

The most recent Fermi 2 biennial EP exercise was conducted on August 28, 2018. Since that time, DTE has conducted drills, exercises, and other training activities that exercised the Fermi 2 emergency response strategies, in coordination with offsite authorities, including full scale drills on May 21, 2019 and October 31, 2019.

The drills described above were full onsite participation drills, which included activation of all Fermi 2 emergency response facilities and at least partial participation by the State of Michigan along with Monroe and Wayne counties. DTE has also conducted 24 limited participation drills distributed amongst four emergency response organization teams since the last biennial EP exercise.

The CY 2020 biennial EP exercise at Fermi 2 was scheduled to be conducted on December 15, 2020, and previously tentatively moved to May 2021 (References 2 and 3). DTE has been conducting weekly teleconference calls with the State of Michigan along with Wayne County and Monroe County Emergency Management to discuss exercise preparations and to evaluate the request for an exemption. During the weekly exercise coordination call conducted on April 7, 2021, it was agreed that the current rate of spread of COVID-19 in the area local to Fermi 2 made it unfeasible to safely conduct the exercise as scheduled in May, 2021 and that an exemption request until the end of CY 2021 would be appropriate. DTE has previously submitted the exercise scenario to the NRC as required by 10 CFR 50, Appendix E, Section IV.F.2.b, by DTE letter NRC-20-0061 on October 14, 2020. DTE has made a reasonable effort to hold the exercise as originally planned or otherwise rescheduled through the current exemption period but has been unsuccessful. Therefore, an exemption from the requirements of 10 CFR 50, Appendix E, Sections IV.F.2.b and IV.F.2.c is required to defer the biennial EP exercise until the end of CY 2021.

The next biennial exercise is tentatively expected to occur in October 2021 and will be coordinated with the applicable OROs, the applicable Nuclear Regulatory Commission region, and the applicable Federal Emergency Management Agency region. To accommodate potential changes to this tentative schedule, DTE requests the schedular exemption to expire December 31, 2021 or when the required exercise is completed in CY 2021, whichever occurs first. While this date is outside the 35 months since the last Fermi 2 biennial exercise, DTE continues to coordinate with the NRC Region III to ensure the Fermi exercise is conducted by December 31, 2021. NRC Region III is currently scheduled to conduct an EP Baseline Program Inspection for July 12 through July 16, 2021. The inspection dates have been coordinated with the NRC Region III EP Inspectors. If this exemption request is granted to allow DTE to conduct the CY 2020 biennial exercise in CY 2021, the subsequent exercise will take place as previously scheduled in CY 2022, such that future biennial exercises will continue to be held as planned in even years.

The OROs will maintain their current emergency plans and remain able to respond to an emergency during the pandemic. The exemption from participation in the exercise does not obviate the ability to respond should an actual emergency occur.

4.0 JUSTIFICATION FOR EXEMPTION

10 CFR 50.12, "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 present an undue risk to the public health and safety, and
- (3) The exemptions are consistent with the common defense and security.

In addition to these three conditions, paragraph (a)(2) of the regulation states that the NRC will not consider granting an exemption unless special circumstances are present. With respect to this request, 10 CFR 50.12(a)(2)(v) states that special circumstances are present whenever: "The exemption would provide only temporary relief from the applicable regulation."

DTE has evaluated the requested exemption for Fermi 2 against the criteria of 10 CFR 50.12 and determined the criteria are satisfied as described below.

1. This exemption is authorized by law.

The biennial EP exercise for the emergency response organization specified in 10 CFR 50, Appendix E, Sections IV.F.2.b and IV.F.2.c is 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 present an undue risk to the public health and safety.

The underlying purpose of 10 CFR 50 Appendix E, Section IV.F.2.b requiring licensees to conduct a biennial EP exercise is to ensure that ERO personnel are familiar with their duties and to test the adequacy of the emergency plan. In addition, 10 CFR 50 Appendix E, Section IV.F.2.b also requires licensees to maintain adequate emergency response capabilities during intervals between biennial EP exercises by conducting drills to exercise the principal functional areas of emergency response. As described above, DTE has conducted training drills exercising the principal functional areas of emergency response since the last evaluated biennial EP exercise and has activated onsite emergency response facilities during those drills with at least partial ORO participation.

The underlying purpose of 10 CFR 50, Appendix E, Section IV.F.2.c requiring full participation by each offsite authority having a role under the radiological response plan to be exercised biennially is to ensure that ORO personnel are familiar with their duties and to test the adequacy of the emergency plan. As noted above, DTE has conducted training drills at Fermi 2 with ORO participation since the last biennial exercise with no performance issues. Drills are also

scheduled for 2021 to exercise the ORO to ensure continued familiarity with duties and ability to respond during an emergency at Fermi 2. DTE considers the performance of the ORO to be at an acceptable level to satisfy the underlying purpose of the rule.

Postponing the exercise from the previously scheduled date of May 2021 does not create any new accident precursors. The probability and consequences of postulated accidents are not increased, and an acceptable level of EP is maintained. Therefore, there is no undue risk to public health and safety.

3. This exemption is consistent with the common defense and security.

The requested exemption would allow rescheduling of the biennial EP exercise from the previously scheduled date of May 2021 to, at the latest, the end of CY 2021. Prior to the implementation of isolation activities in response to COVID-19 pandemic conditions, DTE had scheduled the exercise to be completed within the specified frequency. However, the biennial exercise must be rescheduled to allow continued implementation of the DTE pandemic plan mitigation strategies. These strategies serve the public interest by ensuring adequate staff isolation and maintaining the staff's health to perform their job function during the COVID-19 pandemic. The requested exemption will not endanger life or property or the common defense and security.

4. Special Circumstances: 10 CFR 50.12(a)(2)(v) - Temporary Relief and Good Faith Efforts to Comply

The requested exemption to conduct the biennial EP exercise in CY 2021 instead of CY 2020 would grant only temporary relief from the applicable regulation. DTE had originally scheduled these activities to be completed within the required frequency, and thus comply with the regulation. However, these activities must be rescheduled to allow implementation of the DTE pandemic plan mitigation strategies. Prior to the implementation of isolation activities in response to COVID-19 pandemic conditions, DTE had successfully scheduled and completed these activities within the specified frequency.

5.0 PRECEDENT

In a letter from Energy Northwest to the NRC dated October 29, 2020, Columbia Generating Station requested an exemption from the requirements of 10 CFR 50, Appendix E Section IV.F.2.b and IV.F.2.c to postpone the full-participation biennial EP exercise (ADAMS Accession No. ML20303A348). The Columbia exemption request was approved on December 17, 2020 (ADAMS Accession No. ML20336A183).

6.0 CONCLUSION

As demonstrated above, this exemption request is in accordance with the criteria of 10 CFR 50.12. Specifically, the requested exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. In

addition, the requested exemption provides temporary relief during the COVID-19 pandemic, and DTE has made good faith efforts to comply with the regulation.

7.0 ENVIRONMENTAL ASSESSMENT

Due to the impact of isolation activities in response to the COVID-19 pandemic, DTE requests an exemption for Fermi 2 from the requirements of 10 CFR 50, Appendix E, Section IV.F.2.b and IV.F.2.c. Specifically, DTE requests a schedular exemption to postpone the full-participation biennial EP exercise for Fermi 2 until CY 2021.

DTE has determined that there is no significant hazards consideration; 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 significant construction impact; and there is no significant increase in the potential for or consequences from a radiological accident. The requirements for which an exemption is being requested involve scheduling requirements for the biennial EP exercise. Accordingly, the proposed exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). In accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of this proposed exemption.

8.0 REFERENCES

1. NRC letter from Mr. Ho. K. Nieh to Dr. Jennifer L. Uhle (NEI), "U.S. Nuclear Regulatory Commission Planned Actions Related to Emergency Preparedness Biennial Exercise Requirements for all Licensees During the Coronavirus Disease 2019 Public Health Emergency," May 14, 2020 (ADAMS Accession No. ML20120A003).
2. DTE letter NRC-20-0061, "Submittal of 2020 Emergency Preparedness Exercise Scenario," dated October 14, 2020 (ML20288A710 & ML20288A711).
3. DTE letter NRC-20-0072, "Request for One-Time Exemption from 10 CFR 50, Appendix E, Biennial Emergency Preparedness Exercise Requirements Due to COVID-19 Pandemic," dated November 12, 2020 (ML20317A203).
4. NRC letter from Craig Erlanger to Peter Dietrich, "Fermi Unit 2 – Temporary Exemption from Biennial Emergency Preparedness Exercise Frequency Requirements of 10 CFR Part 50, Appendix E, Sections IV.F.2.b and IV.F.2.c (EPID L-2020-LLE-0188 [COVID-19])" dated December 8, 2020, (ML20332A179).
5. NRC Office of Nuclear Security and Incident Response, NSIR Temporary Staff Guidance, TSG-NSIR-2020-01, "COVID-19 Related Exemptions from NRC Regulations – Emergency Preparedness Exercises," September 11, 2020 (ADAMS Accession No. ML20196M030).

**Enclosure 2 to
NRC-21-0031**

**Fermi 2 NRC Docket No. 50-341
Operating License No. NPF-43**

Letter of Support from State of Michigan



STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
LANSING

GRETCHEN WHITMER
GOVERNOR

COL. JOSEPH M. GASPER
DIRECTOR

May 10, 2021

Mr. Al Mann
Fermi 2 Emergency Preparedness Manager
DTE Energy-Fermi 2, TAC2 R-29
6400 North Dixie Highway
Newport, Michigan 48166

Dear Mr. Mann:

I am writing in regard to the evaluated exercise at the Fermi 2 Nuclear Power Plant scheduled for May 18, 2021. The MSP/EMHSD, along with our state and local partners and Monroe and Wayne counties, stand ready to respond to an incident at any of its power plants. The planning and extra activities surrounding an evaluated exercise in May presents many challenges, such as the requirement of limited personnel in any single location and multiple training and evaluation platforms in place across the various agencies.

On March 10, 2020, Michigan Gov. Gretchen Whitmer declared a state of emergency in Michigan to address the COVID-19 pandemic. Governor Whitmer expanded her declaration to also include a state of disaster on April 1. The Michigan Department of Health and Human Services (MDHHS) issued an emergency order limiting indoor gathering sizes and requiring mask wearing on October 5. In addition to the federal Public Health and National emergencies declared on January 31 and March 13 respectively, President Trump declared a Major Disaster (DR-4494) for all parts of Michigan that is still ongoing.

The COVID-19 response continues for all levels of government across the state, including the Fermi 2 Nuclear Power Plant area. Overall, Michigan has been among the states hit hardest by COVID-19. As of May 6, 2021, 851,947 COVID-19 cases, and tragically 17,897 deaths, have been recorded for the state. A recent surge in COVID-19 cases in Michigan prompted Governor Whitmer, on April 9, to urge residents to take precautionary steps in response. Those steps included urging high schools to shift to remote learning, encouraging diners to choose outdoor dining or takeout instead of indoor seating and recommending youth sports suspend in-person activities. The uncertainty of COVID-19 leaves the future months in an unpredictable state.

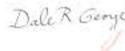
- On May 6, 2021, the Michigan Department of Health and Human Services will implement the Gatherings and Face Mask Order which prohibits indoor gatherings "at non-residential venues, except where no more than 25 persons are gathered." Due to this order and the risks involved with COVID-19, it is not in the best interest of public health safety to assemble the required personnel for an exercise, as we have done in the past and had initially planned when the exercise was scheduled.
- The MSP/EMHSD is scheduled to conduct a virtual response capability exercise in Microsoft Teams. A virtual exercise was successfully conducted for Palisades and was very beneficial for all involved. The counties were able to successfully demonstrate their ability to respond to a disaster at the plant through a discussion-based exercise. Although it works well for the state and local partners, it has limitation for utility partners.

Mr. Al Mann
May 10, 2021
Page 2

- MSP/EMHSD and the counties of Monroe and Wayne support DTE's request for exemption of the 2021 NRC exercise requirement, are committed to maintain their radiological emergency plans, and are not impacted in any manner that would adversely affect their ability to maintain response capability to support emergency response activities in the event of an actual nuclear power plant emergency.

Thank you for your consideration of Michigan's request during this difficult and unprecedented time.

Respectfully,

 Digitally signed by
Dale George
Date: 2021.05.10
16:00:12 -04'00'

Dale George
Training, Exercise and Radiological Unit Manager
Emergency Management and
Homeland Security Division

**Enclosure 3 to
NRC-21-0031**

**Fermi 2 NRC Docket No. 50-341
Operating License No. NPF-43**

Letter of Support from Monroe County



Monroe County Emergency Management Division

987 S. Raisinville Road • Monroe, Michigan 48161-9700
Telephone: 734.240.3135 • Fax: 734.241.7136

April 26, 2021

Allen A. Mann
Fermi 2 Emergency Preparedness Manager
DTE Energy-Fermi2 TAC2 R-29
6400 N. Dixie Hwy
Newport, Michigan 48166

RE: Support of DTE Energy Fermi 2 Exemption Request

To Whom It May Concern

Monroe County supports DTE's request to seek exemption from their 2020/2021 offsite biennial exercise drill requirement conducted through the NRC and the FEMA Region V Graded Exercise, which has been re-scheduled several times. The national Coronavirus pandemic response resulted in postponement of the scheduled drills as well as utilization of state and local emergency operations resources.

As one of the Offsite Response Organizations (ORO) for Monroe County Michigan and the DTE Energy Fermi 2 Nuclear Generating Station, the Monroe County Emergency Management Division has maintained coordination with DTE Fermi 2 and provides the following assurances to support DTE Energy Fermi 2 request for exemption:

Monroe County supports and agrees with DTE Energy Fermi 2's request for exemption of the 2020/2021 exercise requirement and is committed to maintaining Monroe County's Radiological Emergency Response Plans and Procedures.

Monroe County is not impacted in a manner that would adversely affect our ability to maintain response capabilities to support emergency operations for an actual nuclear power plant radiological emergency.

Sincerely,

A handwritten signature in black ink that reads 'Mark A. Hammond'. The signature is written in a cursive, flowing style.

Mark A. Hammond, Director
Monroe County Emergency Management

**Enclosure 4 to
NRC-21-0031**

**Fermi 2 NRC Docket No. 50-341
Operating License No. NPF-43**

Letter of Support from Wayne County



WAYNE COUNTY HOMELAND SECURITY
& EMERGENCY MANAGEMENT

Date: May 11, 2021

From: Tadarial J. Sturdivant, Director,
Wayne County Department of Homeland Security and Emergency Management (WCDHSEM)

To Whom It May Concern,

A FERMI 2 Nuclear power plant exercise was scheduled to take place last fall 2020 for Wayne County, for the FERMI 2 Power Plant. Related to the COVID-19 pandemic, Wayne County is concerned that the exercise will not be safely executed in the traditional manner at any time through the remainder of the year. Wayne County and all of its responding partners need to continue to take measures to restrict possible exposure. Currently, surge projections for the county are expected to hit us in the next few weeks. We are also likely to be overwhelmed as the huge undertaking of vaccination the public continues.

Wayne County is in agreement with FERMI 2's exemption request due to COVID-19. WCDHSEM is committed to maintaining and reviewing the radiological plans and will continue to drill internally to prepare for any possible radiological event.

WCDHSEM has not been impacted in a manner that would adversely affect our ability to maintain response capabilities or to support emergency response activities during actual nuclear power plant radiological emergency.

A handwritten signature in black ink, appearing to read "Tadarial J. Sturdivant for". The signature is written over a horizontal line.

Tadarial J. Sturdivant, Director
Wayne County Homeland Security and Emergency Management