



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

August 31, 2016

Mr. Robert Tozzie
Radiation Safety Officer
DTE Energy
EF2 110 AIB
6400 N. Dixie Hwy.
Newport, MI 48166-9726

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03008659/2016001(DNMS)
AND NOTICE OF VIOLATION – DTE ENERGY

Dear Mr. Tozzie:

On July 13, 2016, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a routine inspection at your facility in Detroit, Michigan. The purpose of the inspection was to review activities performed under your NRC license to ensure that activities were being performed in accordance with NRC requirements.

During this inspection, the NRC staff examined activities conducted under your license related to public health and safety. Additionally, the staff examined your compliance with the Commission's rules and regulations as well as the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel. Mr. Edward Kulzer of my staff conducted an exit meeting with you on-site, during which an NRC Form 591M was issued with no violations identified.

However, after further in-office review of this inspection, the NRC has determined that one Severity Level IV violation of NRC requirements occurred. The violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation concerned the licensee's failure to notify the NRC in writing within 60 days after no principal activities had been conducted under the license for a period of 24 months, as required by Title 10 of the *Code of Federal Regulations* (CFR) Part 30.36. The violation is cited in the enclosed Notice of Violation (Notice). The NRC is citing the violation in the Notice because the inspector identified the violation.

The identification of this violation resulted in the retraction of the NRC Form 591M issued to you on July 13, 2016. Mr. Ed Kulzer of my staff conducted a final exit meeting, by telephone, to discuss the inspection findings and to instruct you to disregard and destroy the NRC Form 591M on August 9, 2016. The reason the NRC Form 591M was retracted is because the results of the inspection were no longer accurately reflected on the Form.

The inspector determined that the root cause of the violation was a lack of understanding of the requirement. As corrective actions to restore compliance, you stated that you plan to resume principal activities within the building at 6100 West Warren Avenue, Detroit, Michigan. You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in NRC Information Notice 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be useful in preparing your response. You can find the Information Notice on the NRC website at: <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response will be made available electronically for public inspection in the NRC's Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made publicly available without redaction.

Please feel free to contact Mr. Kulzer of my staff if you have any questions regarding this inspection. Mr. Kulzer can be reached at 630-829-9875.

Sincerely,

/RA Geoffrey Warren Acting for/

Aaron T. McCraw, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 030-08659
License No. 21-02335-08

Enclosure:
Notice of Violation

cc w/encl: State of Michigan

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OFFICE	RIII-DNMS		RIII-DNMS		RIII		RIII	
NAME	EKulzer:ps		AMcCraw GWarren for					
DATE	8/31/2016		8/31/2016					

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NOTICE OF VIOLATION

DTE Energy
Detroit, Michigan

License No. 21-02335-08
Docket No. 030-08659

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on July 13, 2016, with continued in-office review through August 3, 2016, one violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the *Code of Federal Regulations* (CFR) 30.36(d) requires, in part, that licensees provide notification to the NRC in writing within 60 days of any of the following occurrences:

1. The license has expired;
2. The licensee has decided to permanently cease principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements;
3. No principal activities under the license have been conducted for a period of 24 Months; or
4. No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements.

Contrary to the above, as of July 13, 2016, the licensee failed to notify the NRC in writing within 60 days of no principal activities under the license being conducted with the devices that contained residual radioactivity for a period of over four years. Specifically, the licensee has not conducted principal activities in the building located at 6100 West Warren Avenue, Detroit, Michigan under NRC License No. 21-02335-08 from December 15, 2011, through July 13th, 2016.

This is a Severity Level IV violation (Section 6.3).

Pursuant to the provisions of CFR 2.201, DTE Energy is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001, with a copy to the Regional Administrator, Region III, within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include: (1) the reason for the violation, or, if contested, the basis for disputing the violation or its severity level, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken, and (4) the date when full compliance will be achieved. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this

Enclosure

Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked, or why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

Your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 31st day of August 2016.