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USNRC

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(57 FR 5791)



Nuclear
Operations

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10 CFR Part 2,
Appendix C

May 5, 1992
NRC-92-0025

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The Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Docketing and Service Branch

- References: 1) Fermi 2
NRC Docket No. 50-341
NRC License No. NPF-43
- 2) Policy and Procedure for Enforcement
Actions; Policy Statement Revision
(Federal Register, Vol. 57, No. 32,
dated Tuesday, February 18, 1992)

Subject: Detroit Edison's Comments on the Policy Statement
Revision Regarding Policy and Procedure for Enforcement
Actions

Detroit Edison is encouraged to see the changes in the Policy Statement for Enforcement Actions. The purpose of this action is to update and clarify the Enforcement Policy so that it is easier to use and understand. The NRC is now documenting a number of provisions for enforcement discretion that have, in fact, been in practice for some number of years. This will continue to encourage licensees to identify and correct violations in a timely and effective manner. After reviewing the revisions of this Policy Statement, Detroit Edison agrees with most of the revisions to the Policy Statement. Those portions with which Detroit Edison does not agree are discussed in the NUMARC response which Detroit Edison endorses.

Detroit Edison is particularly concerned about the significant changes that would appear to allow the NRC staff to take escalated enforcement actions on the basis of subjective concerns or their desire to "send a message", rather than on the basis of safety significance or violation of specific regulatory requirements. The supplements to the Policy Statement contain examples of severity level violations that would have the effect of creating new requirements even though it is stated that this is not the intent. Some revised examples are no longer clearly tied to legally binding requirements. An example of this is example C.2 in Supplement 1 - Reactor Operations discussed below.

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Example C.2 in Supplement 1 has been expanded to include systems where a component parameter may be out of specification and the system is no longer "intuitively operable," even though an analysis demonstrates the system was, in fact, capable of fulfilling its safety function, and public health and safety were in no way jeopardized. This example appears to be contrary to the intent of Generic Letter 91-18 which recognizes the potential need for a thorough analysis to support operability determinations in some situations. This may also tend to discourage conservative calls of inoperability by the plant staff since such a call could now be considered a Severity Level III violation despite the results of an engineering analysis. Detroit Edison strongly recommends the deletion of this example and a return to the previous policy that focused on the actual safety significance of a degraded system.

Detroit Edison appreciates the opportunity to comment on the revised policy statement and if you have any questions, please contact Mr. Joseph M. Pendergast, Compliance Engineer, at (313) 586-1682.

Sincerely,



cc: T. G. Colburn
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Region III