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Detroit Edison

November 22, 1999
NRC-99-0106

U. S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington D C 20555-0001

References: 1) Fermi 2
NRC Docket No. 50-341
NRC License No. NPF-43

2) NRC Inspection Report 50-341/99017,
dated October 21, 1999

3) Detroit Edison letter to the NRC, "Safeguards
Event Report (SER) No. 99-S01", NRC-99-0094,
dated October 22, 1999

Subject: Response to Apparent Violation (EA 99-283)

Enclosed is Detroit Edison's reply to the apparent violation contained in Reference 2. The apparent violation involves the failure to conduct an adequate vehicle search resulting in the introduction of contraband into the Protected Area on September 22, 1999 and was discussed in detail in Reference 3.

In Reference 2, the NRC offered Detroit Edison the option to provide a written response to the apparent violation or to request a predecisional enforcement conference. Detroit Edison determined that a predecisional enforcement conference was not necessary and, as requested by Reference 2, informed Mr. James R. Creed of the NRC Region III staff by telephone on October 27, 1999 of our decision to respond to the apparent violation.

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Fermi 2 Operating License Condition 2.E requires Fermi 2 to implement and maintain in effect all provisions of the physical security, guard training and qualification, and safeguards contingency plans as contained in the Fermi Physical Security Plan. Detroit Edison considers that the failure to conduct an adequate vehicle search contrary to Section 3.3.2 of the Fermi Physical Security Plan is an apparent violation and agrees that a violation of Section 3.3.2 of the Fermi Physical Security Plan did occur on September 22, 1999.

The current NRC Enforcement Policy, Supplement III lists the following incident as example number five of a Severity Level III Safeguards Violation:

> "A failure to conduct any search at the access control point or conducting an inadequate search that resulted in the introduction to the Protected Area of firearms, explosives, or incendiary devices and reasonable facsimiles thereof that could significantly assist radiological sabotage or theft of strategic SNM."

Because the contractor personnel were unaware of the presence of the weapon on the vehicle, at no time during the event did anyone have possession of the weapon with the intention of performing an act of radiological sabotage or theft of strategic Special Nuclear Material (SNM). Upon discovery of the weapon, the contractor personnel immediately backed away from the weapon, and informed the armed escorting security officer, who took immediate control of the discovered weapon. Both Detroit Edison and the Monroe County Sheriff's Department determined that there was no indication of malevolent intent on behalf of the contractors because they were not aware of the presence of the weapon and they fully cooperated with the Security Force and offsite authorities. Although the weapon was introduced undetected into the Protected Area, Detroit Edison believes that in this case the weapon could not have significantly assisted radiological sabotage or theft of strategic SNM because it was under continuous armed escort while in the Protected Area and there was no malevolent intent. Detroit Edison believes that this event would more appropriately be classified as a Severity Level IV Safeguards Violation consistent with example number five from the current NRC Enforcement Policy:

> "A failure to conduct a proper search at the access control point."

As part of familiarization with the proposed new NRC Oversight Process, Detroit Edison reviews selected events under that process. This event was evaluated using the current version of the Physical Security Significance Determination Process (SDP) included with SECY-99-007A, "Recommendation for Reactor Oversight Process Improvements." Detroit Edison's assessment of this event using this process determined that there was some potential risk of radiological sabotage associated

with this incident, though the failure of the security personnel to conduct a proper vehicle search was not predictable nor easily exploitable. Additionally, the absence of malevolent intent, the immediate actions of the security force, lack of other circumstances which could have aggravated the consequences, and singularity of this type of event within the past twelve months significantly decreased the likelihood of this event impacting the health and safety of the public. Based on these factors, the SDP guidance indicates that this event falls within the Licensee's Response Band ("Green" band) and would be appropriately resolved within the corrective action program. Detroit Edison realizes that the new NRC oversight process is under development and is continuing to evolve with the experience of the pilot plants. Nonetheless, the application of this process provides an objective assessment of the significance of this event.

In addition, Detroit Edison also reviewed this event under Revision 1, Appendix F to NUREG-1600, "Interim Enforcement Policy for Use During the NRC Power Reactor Oversight Process Pilot Plant Study." A Notice of Violation (NOV) would not be warranted in this situation because Detroit Edison corrected the situation and restored compliance with the Fermi Physical Security Plan within a reasonable timeframe, the event was entered into the corrective action program, and the violation was not willful. Based on these factors, and the low significance of this event as a result of evaluating this event using the SDP, the Interim Enforcement Policy for Use During the NRC Power Reactor Oversight Process Pilot Plant Study indicates that this event would be considered a non-cited violation.

Detroit Edison believes the forthcoming changes to the inspection, assessment and enforcement programs are designed to apply objective, timely, safety-significant criteria to the assessment process. The revised reactor oversight process places emphasis on maintaining safety, enhancing public confidence, improving effectiveness and efficiency of the processes, and finally the reduction of unnecessary regulatory burden. Keeping these goals in mind, Detroit Edison observes that based on the new NRC Oversight Process and the Interim Enforcement Policy for Use During the NRC Power Reactor Oversight Process Pilot Plant Study, this event would be classified as a non-cited violation if the incident had occurred at a Pilot Plant, or after the anticipated April 2000 implementation date. The event was of low significance that did not endanger the health and safety of the public. The incident was immediately entered into the corrective action program for resolution and all but one corrective action has been completed at this time. If the goals of the enforcement policy are to appropriately direct attention to those incidents that impact the health and safety of the public, these goals have already been achieved in this case without escalated enforcement.

While Detroit Edison understands and strives for continuous improvement and is open to constructive feedback, Detroit Edison believes that although this event is being considered for escalated enforcement in the current NRC Enforcement Policy, the event had no adverse impact on the health and safety of the public. Therefore, based upon the information given above, Detroit Edison believes that the application of escalated enforcement is not warranted in this case.

Reference 3 contained Detroit Edison's commitments regarding this event. No additional commitments are being made in this letter.

Should you have any questions or require additional information, please contact Mr. Norman K. Peterson of my staff at (734) 586-4258.

Sincerely,

Enclosure

cc: A. J. Kugler
A. Vegel
NRC Resident Office
Regional Administrator, Region III
Supervisor, Electric Operators,
Michigan Public Service Commission
M. V. Yudasz, Jr.
Enforcement Officer, Region III
Director, Office of Enforcement

I, DOUGLAS R. GIPSON, do hereby affirm that the foregoing statements are based on facts and circumstances which are true and accurate to the best of my knowledge and belief.

DOUGLAS R. GIPSON
Senior Vice President, Nuclear Generation

On this 22nd day of November, 1999 before me personally appeared Douglas R. Gipson, being first duly sworn and says that he executed the foregoing as his free act and deed.

Notary Public

ROSALIE A. ARMETTA
Notary Public, Monroe County, MI
My Commission Expires Oct 11, 2003

Apparent Violation:

Fermi 2 Operating License Condition 2.E requires Fermi 2 to implement and maintain in effect all provisions of the physical security, guard training and qualification, and safeguards contingency plans as contained in the Fermi Physical Security Plan. The failure to conduct an adequate vehicle search appears to be an apparent violation of Section 3.3.2 of the Fermi Physical Security Plan, which requires vehicle search areas to include the cab, engine compartment, undercarriage, and cargo areas.

Reason for the Apparent Violation:

The reason for the apparent violation was an inadequate vehicle search, specifically, that a plan or method to search a vehicle involving multiple search personnel had not been developed prior to the event.

This event was entered into the Fermi 2 corrective action program as Condition Assessment Resolution Document (CARD) 99-17056. A root cause analysis was conducted to determine the root cause of this event. As stated above, the root cause was determined to be an inadequate vehicle search; however, several process barriers were determined to be inadequate and contributed to the event:

1) Inadequate procedure - Fermi 2 Conduct Manual Procedure MGA09, "Access Control," did not include adequate guidance for vehicle searches when multiple security personnel are required to complete the search;

2) Inadequate communication - Pertinent information regarding the status of the vehicle search among the security search personnel was not discussed prior to, during, or after completion of the vehicle search;

3) Inadequate training - Multiple personnel searching a vehicle is not adequately addressed in initial, continuing, or requalification security training;

4) Management expectations - Communication of what the expectations for responsibilities during vehicle searches involving multiple personnel were not clear, were confusing, and not understood;

5) Inadequate immediate supervision - Immediate supervision was inadequate during the evolution and did not ensure teamwork in performing the search satisfactory.

Corrective Steps That Have Been Taken and the Results Achieved:

Security declared a Security Alert at 0828 hours on September 22, 1999 because the weapon was discovered inside the Protected Area. The contractors were then escorted to the Security Building. The vehicle was researched and verified that no other contraband was on the vehicle. A Detroit Edison Property Record was completed and the weapon and ammunition were stored and locked in the Security Armory until the weapon was turned over to the Monroe County Sheriff's Department at approximately 0923 hours on September 22, 1999. A check of the weapon's serial number was conducted by the Sheriff's Department and determined that the weapon was not stolen or registered to anyone in the State of Michigan. The contractors were then escorted back to the truck for out-processing and left the Protected Area at approximately 1123 hours. The Sheriff's Department turned over the weapon to the Michigan State Police for further investigation. The contractors accompanied the Sheriff's deputy to the Sheriff's Department where they were fingerprinted for comparison purposes to any prints that may be found on the weapon and released. The Bureau of Alcohol, Tobacco and Firearms (ATF) notified Detroit Edison on October 13, 1999 that the weapon was transferred to an individual in Virginia. Detroit Edison then notified the Federal Bureau of Investigation (FBI), Ann Arbor, Michigan branch, of the information received from the ATF and the FBI agreed to continue with the follow-up investigation.

The incident was discussed during Security Department human performance stand down meetings, which were held on September 24, and 27, 1999. A remedial training program for security personnel was developed for vehicle search techniques. This training was conducted for all security shift personnel. The remaining security support personnel (i.e., management personnel) who are also certified to perform Watchperson duties, but typically do not perform vehicle searches on a regular basis, were trained on performing vehicle search duties by October 29, 1999.

The General Supervisor, Security Operations distributed a memorandum on October 21, 1999, outlining the responsibilities and management expectations associated with the performance of vehicle search duties. During any vehicle search, the officer who has been assigned as the Vehicle Search Officer (VSO) has responsibility for ensuring that all areas of the vehicle are searched. When the VSO initials the Vehicle Gate Log, the VSO is indicating that he/she has performed or coordinated the search of the vehicle, in accordance with Conduct Manual Procedure MGA09. With regard to clarifying management expectation of the level of supervisory oversight during vehicle search activities, the Security Shift Supervisor's Activity Log contains an entry that requires a time to be entered. Entering a time for this activity indicates that a Security Shift Supervisor (SSS)/Response Force Supervisor (RFS) is present in the trucklock and is observing a vehicle search from initiation through completion. This memorandum also included an increased frequency of training drills conducted on vehicle searches.

Conduct Manual Procedure MGA09, "Access Control" was revised to include guidance for vehicle searches when multiple security personnel are required to complete the search. Included in the revision was guidance to conduct a "pre-job briefing" prior to search activities that involve more than one person. Also included was a self-checking or peer checking mechanism, to ensure all steps have been completed. Procedure MGA09 was revised and implemented on November 15, 1999.

Corrective Steps That Will Be Taken to Avoid Further Violations:

Security Training Lesson Plans and Critical Task Certification Questions will be developed and/or revised to include "team" searches of vehicles. Training of all personnel in the department who are task certified to the position of Watchperson will be completed by December 31, 1999.

Date When Full Compliance Will Be Achieved:

Full compliance was achieved on September 22, 1999 at approximately 0923 hours when the weapon and ammunition were removed from the locked Fermi 2 Security Armory inside the Protected Area and turned over to the Monroe County Sheriff's Department. Full resolution to address the inadequate vehicle search will be achieved when the above cited corrective actions are completed.