



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION III
801 WARRENVILLE ROAD
LISLE, ILLINOIS 60532-4351

December 15, 1999

EA 99-263

Mr. D. R. Gipson
Senior Vice President
Nuclear Generation
The Detroit Edison Company
6400 North Dixie Highway
Newport, MI 48166

SUBJECT: NOTICE OF VIOLATION
(INSPECTION REPORT NO. 50-341/99017(DRS))

Dear Mr. Gipson:

This letter refers to the special inspection conducted from September 27 to October 5, 1999, at the Detroit Edison Company's (DECo) Fermi 2 facility. The inspection was performed in response to information reported to the U.S. Nuclear Regulatory Commission (NRC) on September 22, 1999, by a representative of DECo, that a loaded handgun was found in the protected area of the Fermi 2 facility. A copy of the inspection report was sent to DECo by letter dated October 21, 1999. Representatives of DECo subsequently declined the opportunity for a predecisional enforcement conference for this matter and provided a written response to the NRC in a letter dated November 22, 1999.

Based on the information developed during the inspection and contained in DECo's November 22, 1999, letter the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and is described in detail in the inspection report. In summary, on September 21 and 22, 1999, security personnel did not search an accessible portion of the cargo area of a truck entering the protected area at the Fermi 2 facility. As a result of the failure to search all accessible areas of the truck, a loaded handgun was brought into the protected area of the facility on September 22, 1999.

While admitting the violation, the DECo letter provided reasons to consider the violation as a non-escalated enforcement action and to issue a non-cited violation (NCV). The principal consideration of DECo was that this specific incident did not significantly endanger the health and safety of the public. The NRC disagrees with the DECo assessment because the undetected introduction of a loaded weapon into the protected area of a nuclear power plant is a significant safeguards event. Furthermore, the security officers failed to search the same area of the same vehicle on two consecutive days, which represents a fundamental deficiency in the performance of vehicle searches at the Fermi 2 facility. Contrary to the contentions of DECo, a loaded weapon in the protected area could reasonably be expected to significantly assist in an act of radiological sabotage or the theft of strategic nuclear materials. Therefore, this violation is categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, Revision 1 (in effect at the time of the violation) at Severity Level III.

PDR ADCC

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$55,000 is considered for a Severity Level III violation. Because the Fermi 2 facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.B.2 of the Enforcement Policy. Credit was given for *Corrective Action* because DECo identified the violation and promptly corrected the violation. Corrective actions included, but were not limited to: (1) placing the Fermi 2 facility in a heightened state of security awareness, involving Federal and local law enforcement agencies in investigating this matter; (2) reviewing the incident with and training all security personnel on proper vehicle search procedures; and (3) initiating pre-job briefings to assign a specific area of a vehicle for search to each security officer.

Therefore, to encourage prompt comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that in your November 22, 1999, letter you adequately addressed the reasons for the violation and described the corrective actions taken or planned to correct the violation and prevent recurrence. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response (if you choose to provide one) will be placed in the NRC Public Document Room (PDR). To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction.

Sincerely,

for James F. Caldwell
J. E. Dyer
Regional Administrator

Docket No. 50-341
License No. NPF-43

Enclosure: Notice of Violation

D. Gipson

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cc w/encl: N. Peterson, Director, Nuclear Licensing
P. Marquardt, Corporate Legal Department
Compliance Supervisor
R. Whale, Michigan Public Service Commission
Michigan Department of Environmental Quality
Monroe County, Emergency Management Division
Emergency Management Division
MI Department of State Police

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