

EDO Principal Correspondence Control

FROM: DUE: 06/05/02

EDO CONTROL: G20020308  
DOC DT: 05/21/02  
FINAL REPLY:

Paul Leventhal  
Edwin Lyman  
Nuclear Control Institute (NCI)

TO:

Chairman Meserve

FOR SIGNATURE OF : \*\* PRI \*\*

CRC NO: 02-0367

Chairman Meserve

DESC:

ROUTING:

Granting Workers Unescorted Access to Protected  
Areas of Nuclear Plants Before Completion of  
Background Investigations and Fingerprints Checks

Travers  
Paperiello  
Kane  
Norry  
Craig  
Burns/Cyr  
Collins, NRR  
Reyes, RII

DATE: 05/22/02

ASSIGNED TO: CONTACT:  
NSIR Zimmerman

SPECIAL INSTRUCTIONS OR REMARKS:

Ref. G20020210.

OFFICE OF THE SECRETARY  
CORRESPONDENCE CONTROL TICKET

Date Printed: May 22, 2002 15:12

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**PAPER NUMBER:** LTR-02-0367 **LOGGING DATE:** 05/22/2002  
**ACTION OFFICE:** EDO

**AUTHOR:** Paul Leventhal  
**AFFILIATION:** NCI  
**ADDRESSEE:** Richard Meserve  
**SUBJECT:** Concerns granting workers unescorted access to protected areas of nuclear plants before completion of background investigations and fingerprints checks

**ACTION:** Signature of Chairman  
**DISTRIBUTION:** RF, SECY to Ack

**LETTER DATE:** 05/21/2002  
**ACKNOWLEDGED:** No  
**SPECIAL HANDLING:** OCM #10596  
**NOTES:** Commission Correspondence  
**FILE LOCATION:** Adams

**DATE DUE:** 06/07/2002 **DATE SIGNED:**

EDO --G20020308

NUCLEAR CONTROL  
INSTITUTE

1000 CONNECTICUT AVE NW SUITE 410 WASHINGTON DC 20036 202-452-0892 FAX 202-452-0892

E-mail: nci@nci.org May 21, 2002

The Honorable Richard Meserve  
Chairman, U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Dear Commissioner Meserve:

We are deeply concerned by a recently reported incident which occurred in March at Duke Energy's Oconee nuclear power plant, in which a contract worker with a criminal record was granted unescorted access to the protected and vital areas of the plant. (A copy of the incident report to NRC, along with a story from the *Greenville News*, is attached.)

This incident occurred because the Commission continues to allow nuclear plant licensees to grant temporary unescorted access to contract workers before the FBI is able to complete background investigations and fingerprint checks, which typically take about 30 days. Representative Ed Markey raised similar concerns about unescorted access in an April 10 letter to you (attached).

The Oconee security breach clearly shows that neither the Nuclear Regulatory Commission nor Duke Energy has fully absorbed the lessons of September 11. We are lucky that the individual who was improperly granted unescorted access to the vital areas of the plant was apparently a petty criminal and not a terrorist intent upon sabotaging the plant. Unless NRC puts a stop to the outrageous practice of granting such access to individuals before they are vetted for criminal activities and terrorist ties, we may not be so lucky the next time.

We strongly urge the Commission promptly to order all nuclear power plant licensees to halt the practice of granting unescorted access to any individual before completion of a thorough background check, not only for domestic criminal activities but also for signs of affiliation with international terrorist organizations. Please let us know if the Commission is prepared to take this step to prevent such incidents in the future.

We also continue to be concerned that NRC has chosen to address this and other serious security matters in closed-door meetings with the Nuclear Energy Institute (NEI), an industry lobbying group. In particular, there was a May 7 meeting between NEI and NRC representatives from the Division of Nuclear Security and the Personnel Security Branch of the Office of Administration to discuss vulnerabilities associated with access authorization. We understand the need to withhold certain limited categories of sensitive information as safeguards-confidential, but maintain that closed meetings between NRC

*Strategies for stopping the spread and reversing the growth of nuclear arms.*

Paul L. Leventhal, President, Peter A. Bradford, Julian Koenig, Sharon Tanzer, Roger Richter, Dr. Theodore B. Taylor  
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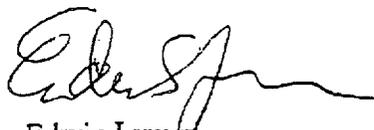
and an industry lobbying group (as opposed to licensees) are inappropriate. This sort of "black box" policy making, from which the public is excluded, creates the impression that the nuclear industry is exercising undue, privileged influence upon NRC regulatory processes. We note that NEI's proposed guidance for access authorization, NEI 99-08, permits the granting of temporary unescorted access and thus should be rejected.

We look forward to receiving your response within the customary 30-day reply period. We are prepared to meet with you and your staff to discuss this matter. Thank you for your attention to this important issue.

Sincerely,



Paul Leventhal  
President



Edwin Lyman  
Scientific Director

Attachments

Duke Energy  
Oconee Nuclear Station  
7800 Rochester Highway  
Seneca, SC 29672  
(864) 885-3107 OFFICE  
(864) 885-3564 FAX

JK

April 9, 2002

U.S. Nuclear Regulatory Commission  
Document Control Desk  
Washington, D.C. 20555

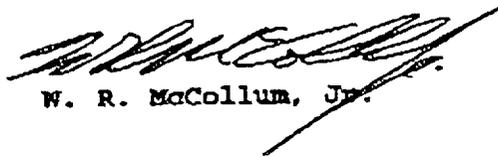
Subject: Oconee Nuclear Station  
Docket Nos. 50-269, -270, -287  
Licensee Event Report 269/2002-801, Revision 0  
Problem Investigation Process No.: O-02-1301

Gentlemen:

Pursuant to 10 CFR 73.71 Sections (b) (1) and Appendix G (I) (b), attached is a Security Special Report 269/2002-801, concerning the falsification of pre-employment screening records by a contract employee.

This report is being submitted in accordance with 10 CFR 73.71 and Appendix G (I) (b). This event is considered to be of no significance with respect to the health and safety of the public.

Very truly yours,



W. R. McCollum, Jr.

Attachment

IE74

NRC FORM 308 (7-2001)		U.S. NUCLEAR REGULATORY COMMISSION		APPROVED BY OMB NO. 3150-0104 EXPIRES 7-31-2004							
<b>LICENSEE EVENT REPORT (LER)</b>  (See reverse for required number of digits/characters for each block)		Estimated burden per response to comply with this mandatory information collection request: 30 hours. Reported lessons learned are incorporated into the licensing process and fed back to industry. Send comments regarding burden estimate to the Records Management Branch (T-8 ES), U.S. Nuclear Regulatory Commission, Washington, DC 20545-0001, or by Internet e-mail to <a href="mailto:ler@nrc.gov">ler@nrc.gov</a> , and to the Desk Officer, Office of Information and Regulatory Affairs, NEOS-10202 (3150-0104), Office of Management and Budget, Washington, DC 20503. If a means used to impose information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.									
1. FACILITY NAME Oconee Nuclear Station, Unit 1			2. DOCKET NUMBER 050- 0269		3. PAGE 1 of 5						
4. TITLE <b>Security Access Revoked For Falsification of Criminal Record</b>											
5. EVENT DATE		6. LER NUMBER		7. REPORT DATE		8. OTHER FACILITIES INVOLVED					
MO	DAY	YEAR	YEAR	SEQUENTIAL NUMBER	REV NO	MO	DAY	YEAR	FACILITY NAME	DOCKET NUMBER	
03	20	2002	2002	- S01 - 0		04	09	2002	Unit 2	0270	
									Unit 3	0287	
9. OPERATING MODE		11. THIS REPORT IS SUBMITTED PURSUANT TO THE REQUIREMENTS OF 10 CFR 19. (Check all that apply)									
1		20.2201(b)		20.2203(a)(3)(ii)		50.73(a)(2)(ii)(B)		50.73(a)(2)(b)(A)			
10. POWER LEVEL		20.2201(d)		20.2203(a)(4)		50.73(a)(2)(B)		50.73(a)(2)(b)			
100		20.2203(a)(1)		50.38(b)(1)(ii)(A)		50.73(a)(2)(iv)(A)		73.71(a)(4)			
		20.2203(a)(2)(i)		50.38(b)(1)(ii)(A)		50.73(a)(2)(iv)(A)		73.71(a)(5)			
		20.2203(a)(2)(ii)		50.38(b)(2)		50.73(a)(2)(iv)(B)		X OTHER Specify in Abstract below or in NRC Form 308A			
		20.2203(a)(2)(iii)		50.49(a)(5)(E)		50.73(a)(2)(iv)(C)					
		20.2203(a)(2)(iv)		50.73(a)(2)(ii)(A)		50.73(a)(2)(iv)(D)					
		20.2203(a)(2)(v)		50.73(a)(2)(ii)(B)		50.73(a)(2)(iv)(E)					
		20.2203(a)(2)(vi)		50.73(a)(2)(ii)(C)		50.73(a)(2)(iv)(A)					
		20.2203(a)(2)(vii)		50.73(a)(2)(iv)(A)		50.73(a)(2)(iv)(B)					
12. LICENSEE CONTACT FOR THIS LER											
NAME L.E. Nicholson, Regulatory Compliance Manager						TELEPHONE NUMBER (include Area Code) (864) 885-3292					
13. COMPLETE ONE LINE FOR EACH COMPONENT FAILURE DESCRIBED IN THIS REPORT											
CAUSE	SYSTEM	COMPONENT	MANUFACTURER	REPORTABLE TO EPRI	CAUSE	SYSTEM	COMPONENT	MANUFACTURER	REPORTABLE TO EPRI		
14. SUPPLEMENTAL REPORT EXPECTED						15. EXPECTED SUBMISSION DATE		MONTH	DAY	YEAR	
YES (If yes, complete EXPECTED SUBMISSION DATE).				X	NO						
16. ABSTRACT (Limit to 1400 spaces, i.e., approximately 16 single-spaced typewritten lines)											
<p>On 3/20/2002 at approximately 1348 hours, with Unit 1, 2 and 3 at 100% power, the licensee received information from a FBI criminal history check that a contract employee had a prior criminal record that was not disclosed by the individual on the background investigation questionnaire. The contract employee had been granted temporary unescorted access on 03/18/2002 in accordance with 10 CFR 73.56. The contract employee's unescorted access to the protected and vital areas was restricted on 03/20/2002 at 1404 hours and the employee was removed from the protected area. Further investigation completed on 03/20/2002 at 1433 hours disclosed that the contract employee had intentionally failed to report criminal offenses on the pre-employment screening record. The intentional falsification does not appear to be due to any malicious intent with respect to the health and safety of the public. Unescorted access was terminated for the contract employee upon determination of unreliability on 03/20/2002 at 1435 hours. This event is considered to have no significance with respect to the health and safety of the public.</p>											

NRC FORM 388A U.S. NUCLEAR REGULATORY COMMISSION  
(1-2001)

**LICENSEE EVENT REPORT (LER)**

FACILITY NAME (1)	DOCKET (2) NUMBER (2)	LER NUMBER (6)			PAGE (3)
		YEAR	SEQUENTIAL NUMBER	REVISION NUMBER	
Oconee Nuclear Station, Unit 1	0500269	2002	S01	0	2 OF 5

NARRATIVE (If more space is required, use additional copies of NRC Form 388A) (17)

**EVALUATION:**

**Background**

Personnel access authorization activities for the Oconee Nuclear Station are performed by Duke Energy Access Services located in Charlotte, North Carolina. Duke's Nuclear Access Authorization Program consists of a background investigation, psychological evaluation, and continual behavior observation. As part of the background investigation, a Background Investigation Questionnaire must be completed by the individual applying for an unescorted access authorization. The Background Investigation Questionnaire requires the individual to list any criminal charges, any arrests and any convictions that have acquired since the individual's 18th birthday. In addition, the individual is fingerprinted and the fingerprints are submitted to the Federal Bureau of Investigation. A temporary unescorted access authorization may be granted to individuals on an interim basis, not exceeding a period of 180 continuous days pending the completion of the five year background investigation. This 180 day temporary unescorted access authorization may be granted only once per individual based upon satisfactory completion of the following conditions:

1. Identity verification through one photo identification.
2. Conduct a credit check.
3. Recommendation of one developed character reference who has had frequent and direct association with the applicant.
4. Conduct an employment check and suitable inquiry for the past 365 days.
5. Passing a psychological evaluation within the past 365 days.
6. Evidence that a request for fingerprint history has been submitted.

This temporary status will remain in effect until the five year background investigation and fingerprints results have been processed and reviewed favorably. Requirements for temporary unescorted access were met for the contract individual on 3/14/2002 and unescorted access was granted on 3/18/2002.

Upon receipt of a criminal history record, it is reviewed by Access Services to determine either to continue to grant or to deny further unescorted access. If the information in the criminal history record is not discovered during the unescorted access authorization process, a determination is made by the Access Services Group whether or not the

**NRC FORM 368A U.S. NUCLEAR REGULATORY COMMISSION**  
(1-2001)

**LICENSEE EVENT REPORT (LER)**

FACILITY NAME (1)	DOCKET (2) NUMBER (2)	LER NUMBER (6)			PAGE (3)
		YEAR	SEQUENTIAL NUMBER	REVISION NUMBER	
Oconee Nuclear Station, Unit 1	0500269	2002	S01	0	3 OF 5

**NARRATIVE** (If more space is required, use additional copies of NRC Form 368A) (17)

arrests/convictions adversely affect the reliability or trustworthiness of the individual. In circumstances where an individual's trustworthiness and reliability is questionable, unescorted access authorization is restricted/revoked.

**Description of Event**

The following is a chronology of the security event reported by Oconee Nuclear Station to the NRC Operations Center via the Emergency Notification System at 1503 hours on 3/20/2002 (EN#38789).

03/18/2002 Individual was issued a security badge with Oconee Nuclear Station protected/vital area unescorted access.

03/20/2002 Individual's unescorted access restricted pending investigation concerning results of criminal history check. Access was subsequently terminated.

**Causal Factors**

The investigation of this event did not indicate any malevolent intent to harm plant equipment on the part of the contract employee. The contract employee failed to disclose all criminal offenses in order to gain unescorted access. The individual was authorized Vital Area Access to perform outage related work. The individual did access the Unit 1&2 Cable Room vital area of the plant on one occasion for less than four (4) minutes, during a pre-job orientation for pending work. During the time period that the individual was within the vital area he was accompanied by another employee who was authorized to the area and who had a full unescorted access clearance. During the time period the individual had unescorted access to the protected area, information from the individual's supervisor indicated that at no time did he display any form of aberrant behavior.

A review of Security computer transactions for the individual indicates that the Unit 1&2 Cable Room was the only vital area accessed.

A review of the authorization process concluded that all requirements and established processes were followed regarding the granting of temporary authorization of unescorted access.

The evaluation of the facts of this event leads to the conclusion, that the cause of this event was an inappropriate action of intentional

NRC FORM 306A U.S. NUCLEAR REGULATORY COMMISSION  
(1-2001)

### LICENSEE EVENT REPORT (LER)

FACILITY NAME (1)	DOCKET (2) NUMBER (2)	LER NUMBER (5)			PAGE (3)
		YEAR	SEQUENTIAL NUMBER	REVISION NUMBER	
Oconee Nuclear Station, Unit 1	0500269	2002	S01	0	4 OF 5

NARRATIVE (If more space is required, use additional copies of NRC Form 306A) (17)

falsification of information. The willful falsification may have been motivated by a desire for employment.

#### CORRECTIVE ACTION:

##### Immediate:

Individual was escorted from the protected area and his unescorted access was restricted.

##### Subsequent:

1. Individual's unescorted access authorization was terminated in accordance with Duke Energy's Access Authorization Program.
2. Indicated unfavorable termination on individual's record in the Personnel Access Data System with additional data added to indicate that pertinent information should be obtained from Duke Energy before processing a request for access from this individual.

##### Planned:

NONE

There are no NRC Commitment items contained in this report.

#### SAFETY EVALUATION:

There was no safety significance associated with this event as the investigation of this event did not indicate any malevolent intent on the part of the contract employee.

#### ADDITIONAL INFORMATION

There were no releases of radioactive materials, no personnel injuries, and no reportable equipment failures associated with this event.

Licensee Event Reports 269/1999-S02, dated November 16, 1999, and 269/2001-S01 dated May 7, 2001, reported similar events where applicants for temporary employment failed to report prior offenses in order to gain employment. Therefore, this is a recurring event. Since the current event involved an intentional act by a different applicant, corrective

NRC FORM 368A U.S. NUCLEAR REGULATORY COMMISSION  
(1-2001)

## LICENSEE EVENT REPORT (LER)

FACILITY NAME (1)	DOCKET (2) NUMBER (2)	LER NUMBER (6)			PAGE (3)
		YEAR	SEQUENTIAL NUMBER	REVISION NUMBER	
Oconee Nuclear Station, Unit 1	0500269	2002	901	0	5 OF 5

NARRATIVE (If more space is required, use additional copies of NRC Form 368A) (17)

actions from the previous events could not be expected to have prevented this event.

There were no releases of radioactive materials, radiation exposures or personnel injuries associated with this event.

This event is not considered reportable under the Equipment Performance and Information Exchange (EPIX) program.

In

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Posted Thursday, May 9, 2002 -8:59 pm

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## Oconee nuke plant had worker with criminal record

By Bob Montgomery  
ENVIRONMENTAL WRITER  
[bmontgom@greenvillenews.com](mailto:bmontgom@greenvillenews.com)

• [Read the report \(In Adobe Acrobat\)](#)

• [Read the report \(In Word\)](#)

The Oconee Nuclear Station allowed a contract worker with a criminal background to enter a vital area of the power plant, a report says.

The incident raised the concern of nuclear watchdog groups, who said it shows the vulnerability of nuclear power plant security to possible terrorist attacks.

The report, filed by Duke Energy Co. and sent to the Nuclear Regulatory Commission, said a subsequent FBI background check found that the worker lied on a job application by not mentioning his criminal background.

The NRC and Duke Energy refused to disclose the nature of the criminal background or the name of the worker.

FBI spokeswoman Carol Allison declined to comment, saying the investigation is ongoing.

The report says badges allowing access are issued on an interim basis and last up to 180 days.

Ed Lyman, scientific director of the Washington-based Nuclear Control Institute, which opposes nuclear proliferation, said, "the practice of granting temporary access without FBI checks is ridiculous, especially now.

"This shows you what could happen. This is obviously benign, but they're letting criminals get access to the plant right now. This is a warning. I don't know who's listening."

The incident was the third since 1999 where applicants for temporary employment failed to report prior offenses in order to get a job, according to the report.

"Therefore, this is a recurring event," the report said.

No one was harmed and there was no threat to public safety, according to the report.

Duke spokesman Tom Shiel declined to comment.

NRC spokesman Ken Clark said a protected area is anywhere within the fence that surrounds the site, while a vital area means he entered the power plant.

"Occasionally contract workers -- painters, maintenance workers -- get in without an adequate background check," Clark said.

He also declined to comment on the Oconee incident. "We couldn't discuss ongoing investigations," he said.

According to the report, the worker filled out a job application and was issued a badge on March 18 for temporary access, the report said.

In

Page 2 of 2 <http://www.nci.org/02/05f/10-01.htm> 5/20/02

To get a badge, the applicant must have a photo identification, pass a credit check, have a character reference, have an employment check for the past year, pass a psychological evaluation, and submit a fingerprint.

The worker was found in the Unit 1 and 2 cable room vital area of the plant for less than four minutes during a pre-job orientation for pending workers.

During that time, he was accompanied by another employee who was authorized to the area and had full unescorted access, the report said.

"At no time did he display any form of aberrant behavior. The intentional falsification does not appear to be due to any malicious intent with respect to the health and safety of the public."

Shiel said the worker was escorted during the four minutes they were in the restricted area.

Duke revoked the worker's badge.

Meanwhile, nuclear watchdog groups said the incident shows how vulnerable nuclear power plants are and how security is lacking.

The report said there were no equipment failures or releases of radiation.

Bob Alvarez, the former top aide to ex-Energy Secretary Bill Richardson, said a 1997 NRC study said a release of radiation would make an area 188 square miles from the plant uninhabitable, cause 20,000 cancer deaths and cause \$59 million in economic loss. It would be worse than a meltdown, he said.

Greenville is about 30 miles east of Seneca, where the power plant is located.

"So much for crack teams," Alvarez said. "That doesn't excuse the fact that they aren't checking. There may be some reactor operators rising to the occasion and some may not -- no one knows."

He said the NRC has not conducted routine exercises since Sept. 11.

He also said the NRC has become less open to the public since the terrorist attacks in New York and Washington.

"The NRC has dropped an iron curtain," he said. "We don't know if they're slapping their wrists or taking it seriously. These are weapons of mass destruction for terrorists."

*Bob Montgomery covers the environment and can be reached at 298-4295.*



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EDWARD J. MARKEY

7TH DISTRICT, MASSACHUSETTS

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April 10, 2002

The Honorable Richard A. Meserve  
Chairman  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Chairman:

I am writing to request information regarding personnel security requirements and practices used during refueling of nuclear reactors. I am concerned that in the rush to complete the refueling process, the nuclear industry may be failing to adequately assess the backgrounds of the temporary employees involved in these activities.

As you know, I recently raised concerns about the adequacy of NRC's security background check requirements for reactor employees, including those who are foreign nationals. As you indicated in your March 4, 2002 correspondence to me, the NRC only requires criminal background searches (as opposed to searches designed to uncover potential links to terrorist groups) to be performed, "the [criminal background] search is limited to the United States" and that "Licensees determine access to the facility regarding foreign applicants on a "best effort" basis."

According to the Nuclear Energy Institute's website, the average time reactors are shutdown for refueling has gone down from an average of 100 days in 1990 to an average of 44.5 days in 1999. Clearly, the shorter the time the reactor is shut down, the more money the reactor licensee will make. I have recently been made aware that even NRC's inadequate background check requirements are not being followed at all nuclear reactors during the refueling process, perhaps because following them would extend the time the reactors must stay shut down.

I have been informed by a senior security officer at the Salem nuclear stations (located in southern New Jersey and operated by Public Service Electric & Gas Co.) that employees whose background checks have not yet been completed are being allowed access to the vital areas of the reactor during the refueling process. These employees, whose security badges are labeled "Category 6," which indicates that their background checks have not yet been completed, are reportedly being granted temporary security upgrades so that they may access the vital areas of the reactor and thus allow the refueling process to be completed faster. These employees are reportedly not being escorted by security personnel within the reactor.

I am concerned about this possible breach in security practices. I am also concerned that since most of the nation's nuclear reactors are refueled in the spring and summer, that this could be happening at nuclear reactors all across the country right now. Consequently, I ask for your prompt assistance in answering the following questions:

- 1) Is it the policy of the NRC that employees can receive security upgrades so that they can have access to vital areas of the reactor, even if their background checks are not yet complete? If so, please fully justify this policy, particularly in light of the events of September 11 and the discovery that Al Qaeda members view nuclear reactors as attractive terrorist targets.
- 2) If it is not your policy to allow employees access to vital areas of nuclear reactors until their background checks have been completed and passed, please indicate what action you plan to take in response to activities reportedly taking place at the Salem units, and to determine whether similar activities are occurring at other sites as well.

Thank you very much for your consideration of this important matter. I ask that you provide your response no later than Friday April 26, 2002. If you have any questions or concerns, please have your staff contact Dr. Michal Freedhoff of my staff at 202-225-2836.

Sincerely,

  
Edward J. Markey