

June 2, 2003

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

Subject: Duke Energy Corporation  
Oconee Nuclear Station, Units 1, 2, and 3  
NRC Docket Nos. 50-269, 50-270, 50-287  
McGuire Nuclear Station, Units 1 and 2  
NRC Docket Nos. 50-369, 50-370  
Catawba Nuclear Station, Units 1 and 2  
NRC Docket Nos. 50-413, 50-414  
ANSWER, RESPONSE AND REQUEST FOR CLARIFICATION TO  
APRIL 29, 2003 NRC ORDER FOR COMPENSATORY MEASURES  
RELATED TO FITNESS-FOR-DUTY ENHANCEMENTS APPLICABLE  
TO NUCLEAR FACILITY SECURITY FORCE PERSONNEL  
(EA-03-038)

Duke Energy Corporation ("Duke") hereby answers the April 29, 2003, Order for Compensatory Measures Related to Fitness-For-Duty Enhancements Applicable to Nuclear Facility Security Force Personnel (EA-03-038) ("Order") for 50-269, 50-270, 50-287, Oconee Nuclear Station, 50-369, 50-370, McGuire Nuclear Station, and 50-413, 50-414, Catawba Nuclear Station. Pursuant to Section IV of the Order and 10 C.F.R. §2.202, Duke requests an extension of time in which to submit information in response to the Order and to request a hearing. In addition, Duke requests the NRC provide certain information to ensure Duke fully understands the underlying bases of the Order and, therefore, can most effectively implement its individual requirements.

Section II of the Order states that, "[t]he Commission has determined that the security measures addressed by the enclosed compensatory measures are required to be implemented by licensees as prudent measures to address issues that may arise from work-hour related fatigue of nuclear facility security force personnel." The Order does not explain the bases for the specific limits and other requirements described in the Order in sufficient detail for Duke to understand the rationale for the requirements. Duke therefore requests that the NRC provide: the bases for the specific limits prescribed in the Order; the bases upon which it relied to establish a linkage between the specific limits chosen and any causal relationship to fatigue that would otherwise occur if those individual or group work hour limits were to be exceeded; and information pertaining to

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any events or incidents where the NRC has determined that fatigue was the cause or a major contributing factor in those events or incidents.

As provided for in Section IV of the Order, good cause for granting an extension of time to respond to the Order and to request a hearing is shown in that no basis or rationale for the Order has been demonstrated. Thus, Duke requests that the Director, Nuclear Reactor Regulation extend the time periods for responding to the Order (including, specifically, Sections B.1 and 2) and for requesting a hearing from the time period specified in the Order until 35 days after the date that the NRC provides the bases for the work hour limits in the Order. Section III. C. of the Order requires that "[a]ll licensees shall within thirty-five (35) days of the date of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachment 2 of the Order. Subject to the foregoing request for information concerning the bases for the Order and the request for an extension of time in accordance with Section IV, Duke will achieve compliance with all applicable requirements not later than October 29, 2003. A more detailed schedule for achieving compliance with the requirements in Attachment 2 is provided in Attachment 1 to this letter.

Duke also hereby confirms its understanding that the Commission intends to exercise enforcement discretion to accommodate issues which may arise as licensees, in good faith, take reasonable actions to implement the specific requirements of this Order. We further understand that the Commission will exercise enforcement discretion for the period necessary to resolve such issues, and to integrate the requirements of this Order with the orders issued February 25, 2002, as well as with other pertinent regulatory requirements, and our safeguards contingency plans, security plans and security officer training and qualification plans.

If you have any questions regarding this submittal, please contact Dana L. Boies, Nuclear Regulatory & Industry Affairs, at (704) 382-1694.

Very truly yours,



M. S. Tuckman

Attachments

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M. S. Tuckman, affirms that he is the person who subscribed his name to the foregoing statement, and that all the matters and facts set forth herein are true and correct to the best of his knowledge.

M. S. Tuckman

M. S. Tuckman

Subscribed and sworn to me: June 2, 2003  
Date

Mary P. Nelson  
Notary Public

My Commission Expires: JAN 22, 2006  
Date

SEAL

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## **Attachment 1**

### **Schedule For Implementation Of Compensatory Measures Related To Fitness-For-Duty Enhancements Applicable To Nuclear Facility Security Force Personnel**

Subject to the request for information concerning the bases for the Order and the request for an extension of time in accordance with Section IV set forth in the cover letter, Duke will achieve compliance with all applicable requirements as set forth below:

#### **C. 1 Individual Work Hour Controls**

Security force personnel at the Duke's nuclear sites are currently working under the administrative controls for individual work hours as defined in Generic Letter 82-12, "Nuclear Power Plant Staff Working Hours." These work hour controls are similar to those contained in Attachment 2, Section C. 1, to the Order. Security force personnel will continue to comply with these work hour controls until such time as an administrative control procedure(s) specifically addressing the requirements of this Order can be developed, approved, and implemented, but no later than October 29, 2003.

#### **C. 2 Group Work Hour Controls**

Other NRC security-related Orders issued on April 29, 2003 are currently being evaluated to determine impacts on security work hours. Necessary staffing adjustments will be made and administrative controls for group work hours will be implemented no later than October 29, 2003.

#### **C. 3**

This exemption will be included in the administrative control procedure(s) to be developed, approved, and implemented no later than October 29, 2003.

#### **C. 4 Procedures**

Administrative control procedure(s) necessary to implement the requirements of Attachment 2, Section C. 4 to the Order will be developed, approved, and implemented no later than October 29, 2003.