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June 14, 2005

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

SUBJECT: Duke Energy Corporation
Catawba Nuclear Station Unit 1 and Unit 2
Docket Nos. 50-413 and 50-414
Security Special Report 413/2005-S01 Revision 0

Pursuant to 10 CFR 73.71 Sections (b) (1) and Appendix G (I) (c), attached is a Security Special Report 413/2005-S01, concerning missing safeguards information. This Security Special Report does not contain any regulatory commitments.

This event is considered to be of no significance with respect to the health and safety of the public. Questions regarding this Security Special Report should be directed to R. D. Hart at (803) 831-3622.

Sincerely,

Dhiaa Jamil

Attachment

JE74



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xc:

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U.S. Nuclear Regulatory Commission
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LICENSEE EVENT REPORT (LER)

(See reverse for required number of digits/characters for each block)

Estimated burden per response to comply with this mandatory information collection request: 50 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-6 E6), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by internet e-mail to bjs1@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-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 Catawba Nuclear Station, Unit 1	2. DOCKET NUMBER 05000 413	3. PAGE 1 OF 4
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4. TITLE
Security Special Report - Lost or Missing Safeguards Information

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
04	19	2005	2005	S01	00	06	14	2005	Catawba Unit 2	05000414
									FACILITY NAME	DOCKET NUMBER

9. OPERATING MODE 1	11. THIS REPORT IS SUBMITTED PURSUANT TO THE REQUIREMENTS OF 10 CFR §: (Check all that apply)									
10. POWER LEVEL 100%	<input type="checkbox"/>	20.2201(b)	<input type="checkbox"/>	20.2203(a)(3)(ii)	<input type="checkbox"/>	50.73(a)(2)(ii)(B)	<input type="checkbox"/>	50.73(a)(2)(ix)(A)		
	<input type="checkbox"/>	20.2201(d)	<input type="checkbox"/>	20.2203(a)(4)	<input type="checkbox"/>	50.73(a)(2)(iii)	<input type="checkbox"/>	50.73(a)(2)(x)		
	<input type="checkbox"/>	20.2203(a)(1)	<input type="checkbox"/>	50.36(c)(1)(i)(A)	<input type="checkbox"/>	50.73(a)(2)(iv)(A)	<input type="checkbox"/>	73.71(a)(4)		
	<input type="checkbox"/>	20.2203(a)(2)(i)	<input type="checkbox"/>	50.36(c)(1)(ii)(A)	<input type="checkbox"/>	50.73(a)(2)(v)(A)	<input type="checkbox"/>	73.71(a)(5)		
	<input type="checkbox"/>	20.2203(a)(2)(ii)	<input type="checkbox"/>	50.36(c)(2)	<input type="checkbox"/>	50.73(a)(2)(v)(B)	<input checked="" type="checkbox"/>	OTHER	Specify in Abstract below or in NRC Form 366A	
	<input type="checkbox"/>	20.2203(a)(2)(iii)	<input type="checkbox"/>	50.46(a)(3)(ii)	<input type="checkbox"/>	50.73(a)(2)(v)(C)	<input type="checkbox"/>			
	<input type="checkbox"/>	20.2203(a)(2)(iv)	<input type="checkbox"/>	50.73(a)(2)(i)(A)	<input type="checkbox"/>	50.73(a)(2)(v)(D)	<input type="checkbox"/>			
	<input type="checkbox"/>	20.2203(a)(2)(v)	<input type="checkbox"/>	50.73(a)(2)(i)(B)	<input type="checkbox"/>	50.73(a)(2)(vii)	<input type="checkbox"/>			
<input type="checkbox"/>	20.2203(a)(2)(vi)	<input type="checkbox"/>	50.73(a)(2)(i)(C)	<input type="checkbox"/>	50.73(a)(2)(viii)(A)	<input type="checkbox"/>				
<input type="checkbox"/>	20.2203(a)(3)(i)	<input type="checkbox"/>	50.73(a)(2)(ii)(A)	<input type="checkbox"/>	50.73(a)(2)(viii)(B)	<input type="checkbox"/>				

12. LICENSEE CONTACT FOR THIS LER

NAME R. D. Hart, Regulatory Compliance	TELEPHONE NUMBER (Include Area Code) 803-831-3622
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13. COMPLETE ONE LINE FOR EACH COMPONENT FAILURE DESCRIBED IN THIS REPORT

CAUSE	SYSTEM	COMPONENT	MANUFACTURER	REPORTABLE TO EPIX	CAUSE	SYSTEM	COMPONENT	MANUFACTURER	REPORTABLE TO EPIX

14. SUPPLEMENTAL REPORT EXPECTED				15. EXPECTED SUBMISSION DATE		
YES (If yes, complete EXPECTED SUBMISSION DATE).	X	NO		MONTH	DAY	YEAR

16. ABSTRACT (Limit to 1400 spaces, i.e., approximately 15 single-spaced typewritten lines)
 On April 19, 2005 at 1500 Catawba Nuclear Station (CNS) determined that a condition reportable to the NRC pursuant to 10 CFR 73.71(b)(1) and paragraph I(c) of Appendix G to 10 CFR 73 occurred. As a part of an ongoing NRC licensing hearing, several Duke Energy exhibits containing safeguards information (SGI) and sensitive information (non-SGI) related to Catawba were provided to the intervenor involved in this hearing. At the end of the hearing, the SGI and sensitive information was to be returned. The intervenor's lawyer notified the NRC and Duke Energy that they could not locate three (3) of the documents. It could not be conclusively determined if the documents had not been sent or were lost. CNS Security reviewed the subject documents and determined that two contained safeguards information that could potentially assist a person in an act of radiological sabotage or theft of special nuclear material (SNM). CNS instituted immediate compensatory measures. Subsequent actions included revisions to security documents such that the missing SGI could no longer assist a person in an act of radiological sabotage or theft of SNM. There is no evidence that the unaccounted for SGI is due to any malicious intent with respect to the health and safety of the public. This event is considered to have no significance with respect to the health and safety of the public.

LICENSEE EVENT REPORT (LER)

FACILITY NAME (1)	DOCKET (2) NUMBER (2)	LER NUMBER (6)			PAGE (3)
		YEAR	SEQUENTIAL NUMBER	REVISION NUMBER	
Catawba Nuclear Station, Unit 1	05000413	2005	S01	00	2 OF 4

NARRATIVE (If more space is required, use additional copies of NRC Form 366A) (17)

BACKGROUND

Catawba Nuclear Station Units 1 and 2 are Westinghouse Pressurized Water Reactors [EIIIS: RCT]. At the time these conditions were identified, Unit 1 and Unit 2 were operating in Mode 1, Power Operation. This event is reportable per 10CFR 73.71(b) (1) and Appendix G(I) (c).

Duke submitted a license amendment request to the NRC on February 27, 2003 to allow the use of four mixed oxide fuel assemblies (MOX) in either a McGuire or Catawba reactor. Subsequently, the request was amended to apply to Catawba only. On September 15, 2003 Duke submitted a change to its physical security plan (PSP) accompanied by a request for exemption to security regulations in 10 CFR 73.46 and 10 CFR 11 to support the planned receipt and use of four MOX assemblies in Catawba Unit 1. The NRC, as part of its technical review process, sent several requests for additional information (RAIs) to Duke related to the PSP changes. Duke responded to these RAIs in letters dated March 1, 2004 and April 13, 2004. Both of these letters contained safeguards information (SGI) related to the security measures planned for the protection of the MOX fuel assemblies.

On August 25, 2003, the Blue Ridge Environmental Defense League (BREDL) filed a petition to intervene in the licensing proceeding. An Atomic Safety & Licensing Board (ASLB) was appointed to rule on the petition which eventually led to a hearing. Because the hearing on the security issue involved SGI, a protective order was issued by the Board detailing how the SGI and other sensitive material would be handled by the parties. The protective order provided BREDL access to SGI subject to certain limitations. It also required that all SGI provided to BREDL be returned to a designated individual at the conclusion of the proceeding. As part of the hearing discovery process, BREDL requested copies of a number of documents, many of which contained SGI. Duke sent the requested documents to its legal counsel, Winston & Strawn, in Washington, DC to be held at their offices where BREDL could have access to the SGI documents.

On January 11, 2005, the hearing commenced in closed session in the NRC's Rockville office. In accordance with a decision of the Commission in CLI-05-02 (January 5, 2005), copies of six documents, including the three missing documents, were provided by a Winston & Strawn representative to BREDL on the morning of January 11, 2005 for their use during the hearing.

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After the hearing process concluded on April 18, 2005, BREDL's lawyer informed the ASLB and counsel that she could not locate three of the documents purportedly given to her. She concluded that because she could not find them that they were never provided.

EVENT DESCRIPTION

(Dates and times are approximate)

The following is a chronology of the security event reported by Catawba Nuclear Station to the NRC Operations Center via the Emergency Notification System at 1550 hours on 4/19/2005.

- 03/01/2004 Duke Energy submitted a Response to Request for Additional Information concerning security issues surrounding a license application to utilize Mixed Oxide (MOX) fuel lead assemblies.
- 04/13/2004 Duke Energy submitted another Response to Request for Additional Information containing security information related to the license application to utilize MOX fuel lead assemblies.
- 01/11/2005 With other exhibits, Exhibits (SEC-SAF-2, SEC-SAF-3, and SEC-SAF-4) were hand delivered to BREDL in the hearings by a Winston & Strawn representative.
- 04/18/2005 Counsel for the BREDL notified orally to a Winston & Strawn representative and later the ASLB, Duke Energy representatives and NRC Staff, via email, that in the course of preparing safeguards documents for their eventual return, it was discovered that copies of three of Duke Energy's exhibits (SEC-SAF-2, SEC-SAF-3, and SEC-SAF-4) were missing.
- 04/19/2005 Duke Energy began reviewing the content of the exhibits and the effect of not being able to locate the documents.
- 04/19/2005 Based on a review of the documents in question, and their importance, Catawba notified the NRC of the missing safeguards information in accordance with 10 CFR 73.71(b)(1).

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NARRATIVE (If more space is required, use additional copies of NRC Form 366A) (17)

CAUSAL FACTORS

No determination of the cause of this event has been made. There is an ongoing NRC Office of Investigation inquiry into this matter; therefore Duke has not initiated a formal investigation.

CORRECTIVE ACTIONS

Subsequent:

1. Catawba reviewed the missing exhibits. Based on this review, Catawba revised security procedures and strategies such that the safeguards information at issue, even if lost, could no longer assist a person in an act of radiological sabotage or theft of SNM. This was completed prior to the arrival of MOX fuel onsite.
2. Catawba has been informed that the NRC Office of Investigation has begun an inquiry into this event.

Planned:

There are no planned corrective actions in response to this event pending completion of the NRC's inquiry. There are no NRC commitments contained in this LER.

SAFETY ANALYSIS

This event did not result in any uncontrolled releases of radioactive material, personnel injuries, or radiation over exposure. The health and safety of the public were not affected by this event.

ADDITIONAL INFORMATION

A review of Catawba events over the previous three (3) years did not identify any previous similar events. Therefore, this is not a recurring event.