

NOTICE OF VIOLATION  
AND  
PROPOSED IMPOSITION OF CIVIL PENALTIES

Duke Power Company  
Oconee Nuclear Station  
McGuire Nuclear Station  
Catawba Nuclear Station

Docket Nos. 50-269, 50-270, and 50-287,  
50-369 and 50-370, 50-413 and 50-414  
License Nos. DPR-38, DPR-47, and DPR-55,  
NPF-9 and NPF-17, NPF-35 and NPF-52  
EA 93-311

During an NRC inspection conducted on December 13 through December 17, 1993, violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C, the Nuclear Regulatory Commission proposes to impose civil penalties pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violations and associated civil penalties are set forth below:

I. Violations Assessed a Civil Penalty

- A. 10 CFR 73.21(c)(1) requires, in part, that access to Safeguards Information be limited to persons with a "need to know" that information.

10 CFR 73.21(d)(2) requires, in part, that Safeguards Information be stored in a locked security storage container when unattended.

10 CFR 73.21(g)(3) requires Safeguards Information to be transmitted only by protected telecommunications circuits approved by the NRC except under emergency or extraordinary conditions.

10 CFR 73.21(h) permits Safeguards Information to be processed or produced on an automatic data processing (ADP) system, provided that the system is self-contained within the licensee's facility and requires the use of an entry code for access to stored information.

Contrary to the above, on March 24, 1993, approximately 96 drawings relating to the Oconee, McGuire, and Catawba plants which contained Safeguards Information were not protected. Specifically:

(1) Safeguards Information had been stored on computer tapes at the Duke Power General Office since approximately 1978, and these computer tapes were not stored in locked security storage containers when unattended nor were controls in place to limit access to the tapes to persons with a "need to know" that information; (2) in some cases since approximately 1987, Safeguards Information was processed on an ADP system that was not self-contained in the licensee's facility and Safeguards Information could have been accessed and removed from the ADP system by unauthorized users; and (3) between November 1992 and March 1993, Safeguards Information could be transmitted by unprotected telecommunication circuits, and was in fact transmitted on an unprotected circuit on March 24, 1993. (01013)

This is a Severity Level III violation. (Supplement III)  
Civil penalty - \$50,000.

- B. 10 CFR 73.21(c)(1) requires, in part, that access to Safeguards Information be limited to persons with a "need to know" that information.

10 CFR 73.21(d)(2) requires, in part, that Safeguards Information be stored in a locked security storage container when unattended, and that knowledge of lock combinations be limited to persons with a "need to know" and who are otherwise authorized access to Safeguards Information in accordance with 10 CFR 73.21.

Contrary to the above, the licensee failed to control significant Safeguards Information on the following three occasions:

1. On August 16, 1993, at the Catawba plant, Safeguards Information was in a file in an unattended desk that was received from the General Office. The desk was not a locked security storage container and access to it was not limited to those with a "need to know" Safeguards Information. The file contained three pages of a Physical Security Plan (PSP) dated March 10, 1988. Although this version of the PSP was outdated, the information contained on the pages was still currently valid and was significant.
2. On November 22, 1993, a list of combinations for all Safeguards Information containers for the McGuire plant was on an unattended desk in an office located outside of the protected area, an area to which access was not limited to those with a "need to know" Safeguards Information. These combinations were Safeguards Information and the desk was not a locked security storage container. This list had apparently been unsecured since November 19, 1993.
3. On December 6, 1993, an unattended Safeguards Container containing safeguards information and located outside of the protected area at the Oconee site, an area to which access was not limited to those with a "need to know" Safeguards Information, was unlocked. This container had apparently remained opened for approximately one month. (02013)

This is a Severity Level III violation. (Supplement III)  
Civil Penalty - \$25,000

## II. Violations Not Assessed a Civil Penalty

- A. 10 CFR 73.21(d)(2) requires, in part, that Safeguards Information be stored in a locked security storage container when unattended.

Contrary to the above, at the Oconee facility, Safeguards Information containers were found unlocked and unattended on July 9, 1992, January 18, 1993, and April 26, 1993; Safeguards Information was found outside a locked security storage container and unattended on January 20, 1993; and, Safeguards Information was found to be missing on February 23, 1993. (03014)

This is a Severity Level IV violation. (Supplement III)

- B. 10 CFR 73.21(d)(2) requires, in part, that Safeguards Information be stored in a locked security storage container when unattended.

Contrary to the above, at the Catawba facility, Safeguards Information was left outside a locked security storage container and unattended on August 8, 1992 and December 22, 1992; and Safeguards Information was found to be missing on January 27, 1993 and April 27, 1993. (04014)

This is a Severity Level IV violation. (Supplement III)

- C. 10 CFR 73.21(g)(1) requires that Safeguards Information, when transmitted outside an authorized place of use or storage, be packaged to preclude disclosure of the presence of Safeguards Information.

Contrary to the above, Safeguards Information was not packaged to preclude disclosure of the presence of Safeguards Information when it was transmitted in inter-office mail, which is outside an authorized place of use or storage, at the Oconee plant on February 9, 1993, and in inter-office mail, which is outside an authorized place of use or storage, at the Catawba plant on December 21, 1992. (05014)

This is a Severity Level IV violation. (Supplement III)

Pursuant to the provisions of 10 CFR 2.201, Duke Power Company, (Licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalties (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1) admission or denial of the alleged violation, (2) the reasons for the violation if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an Order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR - 2.201, the Licensee may pay the civil penalty by letter addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or the cumulative amount of the civil penalties if more than one civil penalty is proposed, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice in whole or in part, (2) demonstrate extenuating circumstances, (3)

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show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section VI.B.2 of 10 CFR Part 2, Appendix C, should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The response noted above (Reply to Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region II, Atlanta, Georgia.

Dated at Atlanta, Georgia  
this *16th* day of March 1994