

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTIES

Entergy Operations, Inc.
River Bend Station

Docket No. 50-458
License No. NPF-47
EA 93-071

During NRC inspections and investigations conducted between April 1992 and August 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(d) requires, in part, that while unattended, Safeguards Information be stored in a locked security storage container.

10 CFR 73.71(b)(1) requires, in part, that the licensee notify the NRC Operations Center within one hour of discovery of the safeguards events described in paragraph I, Appendix G, 10 CFR Part 73. Appendix G, item I.(c) requires that the licensee notify the NRC within one hour of discovery of any failure, degradation, or discovered vulnerability in a safeguards system that could allow unauthorized or undetected access to a protected area or vital area for which compensatory measures have not been employed.

1. Contrary to the above, on March 23-24, 1993, Safeguards Information was unattended and was not locked in a security storage container. Specifically, a safe containing documents with significant Safeguards Information was found unlocked in a building outside the River Bend Station (RBS) Protected Area. The Safeguards Information had been unattended for approximately six hours. Furthermore, the licensee failed to notify the NRC of this event within one hour as required. (01013)
2. Contrary to the above, on September 25, 1992 four draft Safeguards Information documents were discovered in a storage room outside the Protected Area and were not stored in a locked security storage container. These documents had been unsecured for approximately 7 months. (01023)

These violations represent a Severity Level III problem (Supplement III).

Civil Penalty - \$87,500

- B. Condition 2.D of the River Bend Station Operating License requires that the licensee maintain in effect and fully implement all provisions of the Commission-approved Physical Security Plan (PSP).

Paragraph 5.3 of the PSP, "Building Walls and Doors Used as Barriers," states, in part, that personnel and equipment doors in buildings housing vital islands are designed and constructed to ensure a level of integrity equivalent to adjacent walls. Paragraph 5.3 also states, in part, that door construction and locking mechanisms are such that the use of several breaching tools or high explosives would be required to obtain a successful breach.

10 CFR 73.71(c)(1) requires, in part, that the licensee log and record safeguards events described in paragraphs II (a) and (b) of Appendix G, Part 73, within 24 hours of discovery by a licensee employee or member of the licensee's contract security organization. Appendix G, paragraph II (b) lists, in part, any act with the potential for reducing the effectiveness of the safeguards system below that committed to in a licensed physical security or contingency plan, or the actual condition of such reduction in effectiveness as matters that must be logged and recorded.

Contrary to the above, from December 6, 1991 until December 10, 1991, a personnel door to a vital island was degraded by the installation of a thumbblatch that permitted individuals to traverse from a protected area to a vital area of the plant without the use of breaching tools or high explosives. Furthermore, the licensee discovered that the vital area barrier was degraded on December 10, 1991 by installation of the thumbblatch, but did not record the event in the safeguards event log until December 13, 1991, a period in excess of 24 hours. (02013)

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

II. Violations Not Assessed a Civil Penalty

- A. Condition 2.D of the River Bend Station Operating License requires that the licensee maintain in effect and fully implement all provisions of the Commission-approved Physical Security Plan (PSP).

Paragraph 6.6.2 of the PSP, "Vital Islands," states, in part, that when there is a requirement to leave a door open, a Nuclear Security Officer is posted at the Vital Island portal to provide positive access control.

Safeguards Contingency Plan Event 13, Discovery of a Breached Protected Area or Vital Island Barrier, requires the security force to implement compensatory measures.

1. Contrary to the above, from March 3-10, 1992, the licensee failed to maintain posted compensatory measures consisting of posting additional security personnel for five manhole covers which had been identified on March 2, 1992 as having been inadequately secured. (03014)

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

2. Contrary to the above, on December 10, 1991, a door to a vital island was found unlocked (a thumbblatch had been installed on the protected area side of the door), and the licensee did not post a Nuclear Security Officer at the vital island portal to provide positive access control for two hours after security management was notified of this condition. (04014)

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

- B. 10 CFR 50.9 requires, in part, that information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the licensee be complete and accurate in all material respects.

Plant Security Procedure PSP-4-105 require that records be kept concerning the destruction of documents containing Safeguards Information.

Contrary to the above, on September 25, 1992 or shortly thereafter, the licensee discovered that records indicating the destruction of certain documents containing Safeguards Information were inaccurate in that the documents were found on that date and had not been destroyed. These records are material because they relate to the protection of Safeguards Information. (05014)

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

Pursuant to the provisions of 10 CFR 2.201, Entergy Operations, Inc. (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 penalties 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 penalties, 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 penalties will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalties, 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) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalties, in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalties, 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 penalties.

Upon failure to pay any civil penalties 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 penalties, 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 IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011 and a copy to the NRC Resident Inspector at the River Bend Station facility.

Dated at Arlington, Texas
this 21st day of April 1994



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

APR 2 1994

Docket No. 50-458
License No. NPF-47
IA 94-005

Stephen L. Woody
[home address deleted
pursuant to 10 CFR 2.790]

SUBJECT: NOTICE OF VIOLATION (NRC INSPECTION REPORT NOS. 50-458/92-15 AND 93-24 AND NRC INVESTIGATION CASE NOS. 4-92-009, 4-92-034, AND 4-93-038R)

This refers to the enforcement conference conducted on January 6, 1994, to discuss apparent violations of NRC physical security requirements identified during the inspections and investigations referenced above. A list of enforcement conference attendees is enclosed (Enclosure 2).

As discussed in our October 27, 1993, letter to you, the investigative synopses that were provided to you at that time, and at the enforcement conference, a total of 10 apparent violations of NRC requirements was identified. These violations, which occurred at River Bend Station (RBS) between December 1991 and March 1993, involved the protection of Safeguards Information documents, the reporting or logging of various incidents, the maintenance of a vital area barrier, and compensatory actions for degraded barriers. In addition, as our letter indicated, many of these violations were determined to have been committed by or caused by you in your position as the Director of Nuclear Station Security (DNSS) at RBS. The investigations conducted by the NRC's Office of Investigations determined that you had willfully degraded a vital area barrier, willfully failed to log events in violation of reporting requirements, and willfully violated Safeguards Information requirements by transporting Safeguards Information from a facility where you had previously worked after your departure from that facility eliminated your "need-to-know".

The NRC has carefully considered the information you provided at the enforcement conference. In particular, we note that you stated that none of your actions were committed with the intent to violate NRC requirements, that some of your actions were taken for the purpose of ensuring personnel safety or improving the station security plan, that you had acted in good faith but had made errors in judgment, that you had learned important lessons and that you would exercise better judgment and display a higher regard for NRC regulations if given the opportunity to hold another job in the licensed industry. We have also considered the relatively low safety significance of the violations for which you were responsible and the disciplinary action taken by your former employer.

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Nonetheless, the NRC finds that the circumstances surrounding the violations indicate that you lacked the proper regard for NRC requirements, particularly with respect to incident logging and reporting requirements. Notwithstanding your statements regarding your intentions, we have concluded, consistent with the findings of the NRC's Office of Investigations, that you, as the manager of a nuclear security organization with approximately 15 years experience in this field, were aware of, or should have been aware of, NRC regulatory requirements and you acted in spite of such awareness. Furthermore, your actions and judgments were not consistent with the NRC's expectations of a manager of a nuclear security organization and did not set the proper tone for your subordinates. Your deliberate violations are wholly unacceptable.

After giving careful consideration to all of the information in this case, and in particular to the information you provided to us prior to and during the enforcement conference, we have decided to issue the enclosed Notice of Violation based on those violations that were found to have been deliberately committed by you to emphasize that deliberate misconduct will not be tolerated. Should you obtain another position in nuclear security, we trust that you will apply the lessons that you have learned from this experience.

Based on your having already provided us a response to each of the violations in the enclosed Notice of Violation, we require no response from you. In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice", a copy of this letter and the enclosures, as well as your previous responses to the violations, will be placed in the NRC's Public Document Room. In addition, as we indicated to you in our October 27, 1993 letter, we are placing copies of our previous correspondence with you into the NRC Public Document Room at this time.

Sincerely,


L. J. Callan
Regional Administrator

Enclosures:

1. Notice of Violation
2. Enforcement conference attendance list

cc:

ATTN: John R. McGaha, Vice President -
Operations, River Bend Station
P.O. Box 220
St. Francisville, Louisiana 70775

NOTICE OF VIOLATION

Stephen L. Woody
River Bend Station

IA 94-005

During NRC inspections and investigations conducted between April 1992 and August 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 violations are listed below.

10 CFR 50.5 states, in part, that any employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, condition, or limitation of any license issued by the Commission.

10 CFR 73.71(c)(1) requires, in part, that the licensee log and record safeguards events described in paragraphs II (a) and (b) of Appendix G, Part 73, within 24 hours of discovery by a licensee employee or member of the licensee's contract security organization. Appendix G, paragraph II (b) lists, in part, any act with the potential for reducing the effectiveness of the safeguards system below that committed to in a licensed physical security or contingency plan, or the actual condition of such reduction in effectiveness as matter that must be logged and recorded.

Condition 2.D of the River Bend Station Operating License requires that the licensee maintain in effect and fully implement all provisions of the Commission-approved Physical Security Plan (PSP). Paragraph 5.3 of the PSP, "Building Walls and Doors Used as Barriers," states, in part, that personnel and equipment doors in buildings housing vital islands are designed and constructed to ensure a level of integrity equivalent to adjacent walls. Paragraph 5.3 also states, in part, that door construction and locking mechanisms are such that the use of several breaching tools or high explosives would be required to obtain a successful breach.

10 CFR 73.21(c) states, in part, that except as the Commission may otherwise authorize, no person may have access to Safeguards Information unless the person has an established "need to know" the information.

Contrary to the above, Stephen L. Woody, the then-Director of Nuclear Station Security at Entergy Operations, Inc. (licensee), River Bend Station engaged in deliberate misconduct that caused the licensee to be in violation of NRC requirements and/or the requirements of the River Bend Station Physical Security Plan. Specifically, Mr. Woody's actions caused the licensee to be in violation of the following requirements:

1. On March 24, 1993, Mr. Woody caused the licensee to fail to notify the NRC within one hour of the discovery of a vulnerability in a safeguard system that could allow unauthorized or undetected access to a protected area or vital area for which compensatory measures had not been employed. Specifically, he did not report the discovery of significant Safeguards Information in an unlocked safe in an unsecured building outside the protected area until approximately four hours following discovery.

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2. On December 6, 1991, Mr. Woody ordered a thumbblatch installed on a door to a vital area, degrading the vital area barrier which would have allowed opening of the door from the protected area side without the use of several breaching tools or high explosives. The thumbblatch remained in place until December 10, 1991. Furthermore, although Mr. Woody was aware of the fact that the vital area barrier was degraded by installation of this thumbblatch, a condition which reduced the effectiveness of a safeguards system below that committed to in the Physical Security Plan, he caused the licensee to fail to record the discovery of the event, in the safeguards event log until December 13, 1991, a period in excess of 24 hours.
3. In February 1993, Mr. Woody admitted that he had possessed security procedures containing Safeguards Information from another nuclear power facility and that he had shared this information with individuals at River Bend Station who did not have an established "need to know."
(01013)

This is a Severity Level III violation.

Dated at Arlington, Texas
this 21st day of April 1994

ATTENDANCE LIST
ENFORCEMENT CONFERENCE
WITH STEPHEN L. WOODY

January 6, 1994

Nuclear Regulatory Commission

J. Milhoan, Regional Administrator, RIV
G. Sanborn, Enforcement Officer, RIV
W. Brown, Regional Counsel, RIV
D. Chamberlain, Acting Director, Division of Radiation Safety & Safeguards
B. Murray, DRSS, Chief, FIPS
J. Gray, Deputy Director, Office of Enforcement
R. Rosano, Senior Enforcement Specialist, OE
S. Black, Director, PDIV-2, NRR
C. Mohrwinkel, Attorney, OGC

Others

S. Woody, Former Director of Nuclear Station Security, RBS
W. Briggs, Jr., Attorney, Ross, Dixon & Masback
J. Fisicaro, Manager, Safety Assessment & Quality Verification, Entergy
Operations
R. McGehee, Attorney, Wise Carter, Entergy