

July 7, 2006

MEMORANDUM TO: Hubert T. Bell
Inspector General

FROM: William F. Kane */RA/*
Deputy Executive Director for Reactor
and Preparedness Programs
Office of the Executive Director for Operations

SUBJECT: STAFF RESPONSE TO U. S. NUCLEAR REGULATORY
COMMISSION (NRC) SPECIAL INQUIRY, NRC'S OVERSIGHT OF
THE FORCE-ON-FORCE (FOF) PROGRAM, CASE NO. 05-01S

I am writing in response to your May 1, 2006, memorandum to Chairman Diaz which transmitted U. S. Nuclear Regulatory Commission (NRC) Special Inquiry, NRC's Oversight of the Force-on-Force (FOF) Program, Case No. 05-01S, dated May 1, 2006. The staff has reviewed the report and considers it to be thorough, factually correct, and informative and notes that the report accurately reflects the staff's close interaction with the investigative team. The staff particularly values the report's findings as potential program improvements.

The report finds that it is not possible to guarantee complete separation between Wackenhut organizations or to ensure with certainty that sensitive FOF exercise planning information or scenario details are not exchanged between various staffs of Wackenhut organizations. The program does impose certain measures that the investigative team considered to be reasonable steps.

The report also finds that the NRC staff observed the performance of the guard and mock adversary forces to ensure that the exercises were credible and that no information had been developed to indicate that any licensee security guards had advance knowledge of exercise scenarios. Please note, however, that if irregularities in the conduct of the exercises or indications of inspection scenarios having been compromised were to be encountered, the staff retains the option to amend the inspection schedule at any time to ensure that a valid inspection is conducted in an operationally secure and objective environment.

CONTACT: Frank Collins, DSO/NSIR
301-415-6359

One report finding notes that the mitigative steps implemented by the Nuclear Energy Institute (NEI) and Wackenhut were voluntary commitments, and the NRC has no regulatory authority to enforce them. Nevertheless, these voluntary commitments have been institutionalized in terms of policy, organizational relationships, operating procedures and practices, and adherence to the commitments has been confirmed by the management of the Office of Nuclear Security and Incident Response (NSIR). The staff considers that sufficient regulatory authority exists to ensure the industry's continued adherence to the commitments.

Another finding notes that the staff provided the FOF inspection schedule to NEI and NRC contractors well in advance of their operational need for this information. While adhering to the Commission's guidance that licensees are notified at least eight weeks and no more than twelve weeks prior to an FOF inspection, the staff also considers some unique operational needs for logistics or support personnel in scheduling FOF inspections. This practice is not inconsistent with the scheduling practices of the Reactor Oversight Program, which typically schedules in advance a full year or more for complex team inspections. The operational needs of the logistics and other support organizations are broad, encompassing short- and long-term availability, mission assignments, individual and collective training and re-qualification, scheduled leave, rotational assignments, normal attrition, and replacement staffing. In the case of the Composite Adversary Force (CAF), a six-month forward visibility has proven to be marginally sufficient. In the case of the subject-matter-expert contractors, because of their unique skills and competing demands for their services, six-month visibility would be insufficient and inconsistent with the terms of NRC's memorandum of understanding with the contractor organization to provide a one-year advance schedule insight.

The report states that NEI has no need for schedule information and merely serves as a conduit to forward the information to Wackenhut. The staff considers NEI's role in program communication with the CAF to be an operational necessity in that NRC has no contractual relationship with Wackenhut. In their role as licensees' designated representative, NEI holds the contractual relationship with Wackenhut.

The report also notes that, despite potential vulnerabilities with the security of the FOF exercise information, the NRC inspection teams that evaluated FOF exercises had instituted measures which appeared to be sufficient to detect irregularities in the conduct of the exercises or indications that the exercise scenarios had been compromised. Rather than being a means of working around programmatic flaws, the staff carefully structured the FOF inspection program such that monitoring for irregularities by the inspection teams is integral to, not circumstantially related to, the program's stated goals, processes, and procedures.

In conclusion, the staff acknowledges the factual nature of the subject report, including its findings, and considers it to be a valuable source of potential program improvements, particularly regarding the potential for inadvertent release of sensitive schedule information. The staff will continue to identify and implement lessons-learned from both operational experience and stakeholder interaction, including other offices within the NRC. As discussed above, the staff strives toward continued improvement in the formality and effectiveness of communications within the NRC-NEI/Wackenhut relationship. The recent reorganization within NSIR will increase emphasis on the operational aspects of nuclear power plant security, apart from the policy aspects of the program, and promises to improve that important stakeholder interface. The staff will also consider the findings of the report in its periodic reviews and revision of the specific, CAF-related and communications program guidance in Inspection

Procedure, IP 71130.03, "Contingency Response - Force-on-Force Testing." In addition to the staff's self-assessment and procedural improvements, the staff will monitor its progress toward addressing the findings of the report in periodic management/Commission briefings, open and closed stakeholder meetings, and in its annual report to Congress on the FOF program.

cc: Chairman Klein
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
SECY

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cc: Chairman Klein
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* See previous concurrence

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