

**NRC RESPONSE TO QUESTIONS FROM CONGRESSMAN EDWARD MARKEY
DATED SEPTEMBER 5, 2006, REGARDING SOUTH TEXAS PROJECT NUCLEAR POWER
PLANT AND FORCE-ON-FORCE EXERCISES AT NRC-LICENSED FACILITIES**

QUESTION 1.

For each of the security problems detailed by the [Union of Concerned Scientists] UCS report, please indicate:

- a) What the [U.S. Nuclear Regulatory Commission] NRC has done to investigate the substance of the allegation?
- b) What the NRC has done to compel the licensee of the reactor to implement corrective actions?
- c) What actions the licensee has taken to implement these corrective actions?
- d) What actions NRC has undertaken to impose penalties on the licensee for any failures to follow NRC regulations or Orders?
- e) If no such actions have been taken, why not?

ANSWER.

Upon receiving your letter and the UCS report, the NRC promptly reviewed the concerns and determined the necessary follow-up actions. Some of the concerns were similar to those that have been previously inspected through the NRC allegation program and had not been substantiated. On September 18, 2006, a team of three NRC staff (two from the Region IV office and one from the Office of Nuclear Security and Incident Response) began an on-site inspection of the remaining allegations that were identified in the UCS report. The NRC has completed its review and posted a summary of the results on the NRC web site at <http://www.nrc.gov/reading-rm/doc-collections/for-the-record/2006/south-texas-project.pdf>. A copy of the summary is provided as Enclosure 2. NRC will continue to review and monitor the licensee's performance.

QUESTION 2.

In the Commission's October 2004 response to my August letter on the conflict-of-interests associated with allowing [Nuclear Energy Institute] NEI to use Wackenhut as the mock terrorist team for [Force-on-Force] FOF exercises, then-Chairman Diaz indicated that the NRC had required NEI to implement measures to assure "adequate independence" between the mock terrorist team and other reactor Wackenhut security guards. However, a May 1, 2006 report by the NRC Inspector General (IG) stated that many of these commitments were unverifiable. Specifically, the report found that it "was also not possible to ensure with certainty that sensitive FOF exercise planning information or scenario details were not exchanged between the staffs of the Wackenhut Vice President of Special Operations, responsible for the mock adversary force, and the President of Wackenhut Nuclear Services, responsible for providing security.

Furthermore, the mitigative steps implemented by NEI and Wackenhut were voluntary commitments, and NRC had no regulatory authority to enforce them.” In light of the allegations involving staged FOF exercises at the South Texas Project and the statement by the Entergy spokesperson regarding the conflict-of-interest question at the Pilgrim Nuclear Station, do you still believe these measures are adequate?

ANSWER.

NRC still concludes that the measures addressing conflict-of-interest issues that were provided to you in October 2004 are adequate. More importantly, the NRC staff and its contractors evaluate the Composite Adversary Force’s (CAF’s) performance at each FOF exercise to detect if inappropriate sharing of information has occurred. The CAF has consistently met the expectations for physical and tactical skills established by the NRC.

- a) Although any allegation involving staged FOF exercises is of concern to the NRC, the exercise at South Texas Project, mentioned in the UCS report, was not an NRC-evaluated triennial FOF exercise and did not involve the CAF team. This allegation was investigated and reviewed previously by Region IV inspectors. It was determined that the allegation was not supported by the evidence and has been closed.
- b) With regard to Pilgrim Nuclear Station, NRC’s understanding is that the change from Wackenhut to a proprietary guard force was not prompted by conflict-of-interest issues. The change addressed a number of ongoing issues that the licensee had with Wackenhut’s management of the site security program, including past performance problems and friction between the union and Wackenhut personnel.

QUESTION 3.

Since the inception of the NEI-Wackenhut CAF team, has any individual raised allegations or concerns regarding the adequacy of these measures for any particular FOF exercise. Please fully describe each such situation, as well as the steps the NRC took to investigate or remedy the problem.

ANSWER.

Since the inception of the CAF team (a combined team of nuclear plant Security Officers from Wackenhut and other companies), no allegations or concerns have been brought to the attention of the NRC regarding conflict-of-interest issues with the CAF.

QUESTION 4.

- a) How many FOF drills have been conducted using the NEI-funded Wackenhut group as the CAF?
- b) Of these FOF drills, how many resulted in members of the CAF gaining access to equipment or areas of the reactor that could, had the attack been real, resulted in a core melt, breach of the containment structure, or breach of the spent fuel storage facility? How many of these occurred at reactors who also use Wackenhut security guard forces?

- c) Of these FOF drills, how many resulted in mock injuries or fatalities (and how many injuries or fatalities) of the protecting guard forces? How many of these occurred at reactors who also use Wackenhut security guard forces?
- d) For each FOF drill that used an NEI-funded Wackenhut CAF team, please indicate the date of the FOF drill, the reactor at which it took place, and which, if any, of the outcomes described in parts b and c occurred.

ANSWER.

Details regarding the performance of a specific NRC-licensed facility during FOF exercises are designated as "Official Use Only - Security Related Information" or Safeguards Information and are not made publicly available. Therefore, the NRC's answers to question 4.d, which was previously provided in the October 20, 2006, letter to you, have been provided collectively here in general terms.

- a) The NRC has conducted FOF inspections at 44 power reactor facilities using the NEI-funded CAF.
- b) No exercises have resulted in members of the CAF team gaining access to complete target sets that would have resulted in core damage, breach of containment structure, or breach of the spent fuel pool storage facility if it had been an actual attack.

However, the CAF team has been able to gain access to target set elements during nine FOF inspections, four of which were at sites that used Wackenhut security forces.

- c) There were mock injuries or fatalities of the protection security force at all 44 FOF inspections, which consist of multiple exercises per inspection, with a total of 179 security force personnel neutralized. Wackenhut supplied the protection security force at 23 of the sites tested so far. Fully expecting that some attrition of the protection security force will occur during each exercise, the NRC closely monitors and assesses the attrition to ensure that appropriate corrective measures are implemented when the level of attrition indicates a potentially deficient protective strategy for the facility.

QUESTION 5.

In light of the widespread reports of Wackenhut's security deficiencies, inadequate training and whistleblower retaliation, why does the Commission continue to have any confidence that either:

- a) the Wackenhut guard forces at specific reactors can perform as needed for their vital security mission? or,
- b) the NEI-Wackenhut CAF team can perform as needed for their vital security mission?

ANSWER.

- a) The NRC requires all licensees to provide a security force that meets the requirements of 10 CFR 73.55 (b), "Physical Security Organization," and requires licensees to maintain a

trained, equipped, and qualified security force in accordance with 10 CFR Part 73, Appendix B, "General Criteria for Security Personnel." Licensees have the option of employing a proprietary security force that consists of licensee personnel or obtaining their security services with another company under an appropriate contractual arrangement. Licensees are responsible for ensuring that either the proprietary force or the contract force meets NRC requirements as outlined in 10 CFR Part 73. The NRC conducts routine inspections of licensees' implementation of the regulations and takes appropriate enforcement actions when necessary. The licensee's security force performance is evaluated during FOF exercises to ensure it can perform adequately.

- b) The NRC ensures that the CAF team's performance is consistent with the expectations established by NRC for the CAF team's physical and tactical skills. Acceptable CAF performance is ensured because the team is under the operational control of the NRC inspection team leader during all FOF exercises. The inspection team defines the adversary objectives for each exercise and ensures that the CAF team develops the three most challenging scenarios to test the protective strategy of the licensee. These plans are reviewed and approved by the NRC Team Leader and cannot be altered by the CAF team without prior approval of the NRC Team Leader. The NRC inspection team observes and evaluates CAF team performance during each exercise. In addition, the NRC monitors the training that all prospective CAF team members are required to complete before participation in any exercise. Because of these control mechanisms, the NRC is confident that the CAF can perform to meet NRC expectations.

QUESTION 6.

The Secretary of Homeland Security has complained that privacy laws in the European Union are hampering his ability to protect against terrorism. Has the foreign ownership of Wackenhut raised issues regarding the ability of the NRC to maintain adequate oversight regarding the protection of nuclear power plants in the United States against foreign and domestic terrorist threats?

ANSWER.

Foreign ownership of Wackenhut has not raised any issues regarding the NRC's ability to maintain adequate oversight regarding the protection of nuclear power plants in the United States against foreign or domestic terrorists. The U.S. subsidiary of Wackenhut has a top secret facility clearance issued by the Department of Energy (DOE), and the European ownership issue was mitigated by Wackenhut's establishment of a proxy agreement with cleared U.S. citizens. Under a proxy agreement, the foreign owner's voting rights are conveyed to the proxy holder. This means that the foreign owners of Wackenhut relinquished most of the rights associated with ownership of Wackenhut to the cleared U.S. citizens approved by the DOE.