



United States Nuclear Regulatory Commission

Protecting People and the Environment



Review Team Findings with Respect to Inattentive Security Officers at Peach Bottom

February 11, 2008





BASIS AND SCOPE

In December 2007, the U.S. NRC's Deputy Executive Director for Reactor and Preparedness Programs tasked an independent team to review and evaluate activities associated with inattentive security officers identified at the Peach Bottom Nuclear Station in September 2007. The team was overseen by the Region I Deputy Regional Administrator, and included input from staff in the Office of Enforcement and the other three regional offices.

This report reflects the recommendations of the review team, some of which the NRC has already begun to address. The recommendations in this report represent the first of three phases of activities NRC plans to take regarding this initiative, which are:

- Consider and take actions on certain review team findings in this report
- Establish a Senior Executive Review Panel to determine the best method for implementing these recommendations
- Refer the report to the agency's Lessons Learned Oversight Board for its consideration as a formal lessons learned item.

The Inspector General is also planning a review of this issue, and its findings will be incorporated into overall agency actions.

February 6, 2008

MEMORANDUM TO: Bruce S. Mallett
Deputy Executive Director of Reactor
and Preparedness Programs

FROM: Marc L. Dapas /RA/
Deputy Regional Administrator
Region I

THRU: Samuel J. Collins /RA/
Regional Administrator
Region I

SUBJECT: PEACH BOTTOM REVIEW TEAM FINDINGS

The attached report documents the results of the Peach Bottom lessons-learned review conducted by the NRC staff to evaluate allegation and inspection program activities associated with the condition of inattentive security officers identified at the Peach Bottom Station in September 2007. As noted in the Executive Summary of the attached report, this lessons-learned initiative involved an assessment of whether the allegation process, as currently defined, was appropriately followed; whether additional process flexibilities could have been exercised; if inspection procedures for the security function provide sufficient guidance for identifying conditions of inattentiveness among the security force; and if changes to the allegation and inspection program, policies, or processes should be further considered. A summary of the overall conclusions by the review team relative to these specific focus areas is provided in the Executive Summary to the attached report.

The team's observations and findings were discussed with the other regional offices as well as the Office of Enforcement. As noted in the attached lessons-learned report, each of the regional offices have implemented selected allegation process enhancements within the current flexibilities of the allegation program. This has been a result of the collaborative information sharing that has occurred across the regional offices as this lessons-learned initiative proceeded. The report also includes proposed next steps for consideration by agency management in dispositioning the review team's recommendations.

Please contact me if you have any questions regarding this lessons-learned initiative.

REVIEW TEAM FINDINGS WITH RESPECT TO INATTENTIVE SECURITY OFFICERS AT PEACH BOTTOM

I. Executive Summary

In March 2007, the NRC received an allegation from a former security manager for Wackenhut (the company contracted by Exelon to provide security services at the Peach Bottom Atomic Power Station) expressing concerns with aspects of the security program at the Peach Bottom Station. The concerns were that security officers have been sleeping on duty due to fatigue from working excessive overtime; security officers are fearful of retaliation if they raise concerns; and Exelon managers are aware of instances of inattentiveness, but have not taken proper actions to address it.

Consistent with agency policy, the NRC informed Exelon (the licensee for the Peach Bottom Station) of these concerns because the licensee has primary responsibility for ensuring safe and secure operation of its facilities and can promptly address issues through ready access to site personnel and documentation. The NRC also requested the licensee to investigate the allegation concerns, take appropriate actions based on the results of the licensee's investigation, and provide the NRC with a written response for the NRC's review. In its response to the NRC, Exelon concluded that it was not able to substantiate the concerns. The NRC reviewed the licensee's response and at the time considered it adequate to resolve the concerns.

In September 2007, the NRC was presented with video evidence by a WCBS-TV reporter that showed a number of security officers at the Peach Bottom Station in an inattentive state in the ready room.¹ None of the inattentive officers were manning specific security posts at the time; however, they were required to be attentive in order to respond if needed. After receiving

this information, the NRC conducted a range of inspection and investigative activities to determine the extent of this condition and ensure that Exelon and its security contractor, Wackenhut, had taken prompt and effective corrective actions to address this unacceptable performance.

Given that the NRC did not identify this unacceptable licensee/contractor performance issue earlier via its allegation process or inspection program, a review team conducted a comprehensive lessons-learned review to determine if the allegation process, as currently defined, was appropriately followed; whether additional process flexibilities could have been exercised; if inspection procedures for the security func-

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¹The ready room is a place where security officers not on patrol, or manning an observation post, are allowed to read, study, eat, or relax, but must remain ready to respond if called upon.

This lessons-learned initiative involved a review of the NRC allegation process, specific instructions for implementing the allegation process, a review of security inspection procedures, and discussions with selected staff in NRC Region I, the other three NRC regional offices, and the Office of Enforcement (the NRC program office with oversight responsibility for implementation of the agency's allegation program).

dures, and discussions with selected staff in NRC Region I, the other three NRC regional offices, and the Office of Enforcement (the NRC program office with oversight responsibility for implementation of the agency's allegation program). The effort was led by a senior technical employee with 23 years of NRC experience, who was assisted by a recently hired engineer with extensive experience in the Navy's nuclear program. Neither individual was involved in any aspect of the receipt and processing of the subject allegations or the security inspection program. In addition, a senior agency manager with 26 years experience in the field of nuclear power, including 19 years with the NRC, provided oversight of this lessons-learned initiative.

This report contains detailed information regarding how the NRC addressed the allegation concerns provided to the NRC in March, including the reasons why the NRC forwarded these concerns to Exelon for its evaluation, and the basis for the NRC's conclusion that the subject allegation could

In summary, the lessons-learned review team concluded that the NRC followed its allegation process in response to two of the three concerns communicated to the NRC in March 2007, specifically that: (1) security officers at the Peach Bottom Station have been sleeping on duty while in the bullet resistant enclosures, and in other (unspecified) areas, due to fatigue from working excessive overtime and from not being able to adjust to 12 hour shift schedules; and, (2) security officers are fearful of retaliation if they raise concerns. With respect to the third concern that licensee management was aware of instances of inattentiveness, but did not take proper actions to address them, the review team concluded that the staff should have conducted a more thorough review of the licensee's response in determining if the licensee's evaluation was adequate to resolve the concern.

team concluded that the staff should have conducted a more thorough review of the licensee's response in determining if the licensee's evaluation was adequate to resolve the concern. In addition, the review team identified some allegation process flexibilities which could have been exercised that may have

tion provide sufficient guidance for identifying conditions of inattentiveness among the security force; and if changes to the allegation and inspection program, policies, or processes should be further considered.

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not be substantiated. The report also describes the NRC's response to the WCBS-TV reporter's communication that he possessed video clips of inattentive security officers.

In summary, the lessons-learned review team concluded that the NRC followed its allegation process in response to two of the three concerns communicated to the NRC in March 2007, specifically that: (1) security officers at the Peach Bottom Station have been sleeping on duty while in the bullet resistant enclosures, and in other (unspecified) areas, due to fatigue from working excessive overtime and from not being able to adjust to 12 hour shift schedules; and, (2) security officers are fearful of retaliation if they raise concerns. With respect to the third concern that licensee management was aware of instances of inattentiveness, but did not take proper actions to address them, the review

resulted in additional information as part of the NRC's efforts to validate the concerns expressed in the March allegation. However, it is not apparent that obtaining more information from the licensee with regard to its response to the allegation concern, or exercising these process flexibilities would have resulted in a different overall conclusion regarding the validity of the March 2007 allegation, or have resulted in the NRC identifying the unacceptable security officer behaviors before the events of September, 2007. The review team also concluded that the NRC took significant and timely regulatory actions to address evidence of inattentive security officers provided to the NRC in September 2007.

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With respect to the NRC's program for inspecting security at nuclear power plants, the review team noted that none of the inspection procedures provide specific direction or guidance with respect to identifying potential security officer inattentiveness; however, the procedures do require inspectors to monitor security officer performance in all plant areas, both during day and night shifts, and to conduct interviews with security force personnel at their duty stations. These procedures also require reviews of the behavioral observation and fitness for duty programs, as well as security force work hours, all of which are regulatory measures designed to ensure security officer attentiveness. The review team noted that no inattentiveness issues were identified during an NRC inspection of the licensee's performance in the security area that was conducted in April/May 2007. However, the scope of this inspection was not modified based on the information provided to the NRC in the March allegation. Due to the unique layout of security facilities, such as bullet resistant enclosures and ready rooms, it may be necessary to employ means other than typical NRC inspection techniques, to detect security officer inattentiveness.

The review team noted that no inattentiveness issues were identified during an NRC inspection of the licensee's performance in the security area that was conducted in April/May 2007. However, the scope of this inspection was not modified based on the information provided to the NRC in the March allegation.

The review team developed several recommendations with respect to the allegation program procedures, practices, and policies to be considered by the agency to maximize the information reasonably available to the NRC in its review of allegations. The team also developed recommendations specific to the inspection program to enhance the NRC's ability to identify conditions of inattentiveness via its inspection process/practices. These recommendations, as well as the associated observations resulting from the lessons-learned review, are identified in Attachment 1.

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A graphical depiction of the allegation process is provided as Attachment 2 in this report to supplement the various references to allegation process steps that were exercised.

II. Purpose and Scope

This lessons-learned review was initiated after the NRC determined, in follow-up to allegations received in September 2007, that several security officers had been inattentive at the Peach Bottom Station. The review was conducted to determine areas for agency improvement since the condition of inattentive security officers was not identified by the NRC as a result of an allegation received in March 2007, nor during NRC inspections at the Peach Bottom Station. Details of these allegations and NRC Region I's response to the allegations are described in this report. Specific NRC inspection activities and associated results are also described in this report.

This lessons-learned review included an in-depth evaluation of several allegation files, agency procedures governing the handling of allegations, and procedures pertaining to the NRC baseline security inspection program, as well as discussions with NRC Region I staff who processed the allegations and conducted security inspections at the Peach Bottom Station.² The lessons-learned review also involved an evaluation of information provided by the other three NRC regional offices regarding their respective processes for handling allegations, and an assessment of the results of sampling reviews conducted by the other regional offices specific to the disposition of allegations in the security area. In addition, the lessons-learned report includes the results of an independent review by the NRC Agency Allegation Advisor of the staff's handling of the March allegation. This independent assessment was conducted at the request of NRC Region I to assist in determining any lessons to be learned from an allegation process implementation perspective.

III. NRC Region I's Handling of the March 2007 Allegation (2007-0040) Regarding Inattentive Security Officers

In late March 2007, the NRC resident inspectors assigned to the Peach Bottom Atomic Power Station received a letter from a former security manager for Wackenhut (the company contracted by Exelon to provide security services at the Peach Bottom Station) expressing concerns regarding the security program. The letter, along with a completed allegation receipt form, was promptly forwarded to the NRC Region I Office. The allogger, hereafter referred to as the concerned individual (CI), indicated that he was providing the NRC with the information in his letter on behalf of selected security officers working at the Peach Bottom Station. The information in the subject letter pertains to three distinct concerns:

- security officers at the Peach Bottom Station have been sleeping on duty while in the bullet resistant enclosures (BREs), and in other (unspecified) areas, due to fatigue from working excessive overtime and from not being able to adjust to 12 hour shift schedules;
- security officers are fearful of retaliation if they raise concerns; and,
- Exelon management is aware that security officers are sleeping on duty, but is not taking proper actions to address it.

² The procedures reviewed were: NRC Management Directive 8.8, "Management of Allegations"; Regional Instruction (RI) 1210.1, Rev. 13, "Handling of Allegations"; and RI 1230.1, Rev. 4, "Handling of Complaints of Improper Actions by NRC Staff". In addition, three (3) allegation files related to Peach Bottom were reviewed.

Although the letter from the CI did not contain any specific objection to the NRC forwarding the concerns to the licensee, the CI requested that the NRC: (1) provide complete anonymity regarding the letter; (2) not inform the licensee or the security contractor of the letter's existence; (3) not tell the licensee or the security contractor that any security employee had voiced concerns captured in the letter; and (4) not contact the CI in any manner. Consistent with NRC practice to avoid alienating CIs, which could make them reluctant to bring forward other concerns to the NRC in the future, NRC Region I honored the CI's requests. Specifically, while the NRC paraphrased the CI's concerns and provided them to Exelon, the NRC did not reveal the CI's name, the licensee was not informed of the existence of the letter, the licensee was not informed of the source of the allegation, and the CI was not contacted by the NRC.³

In response to the CI's concerns, NRC Region I conducted an adhoc Allegation Review Board (ARB) on March 29, 2007, as well as a routine ARB on April 11, 2007, to determine appropriate follow-up actions to address the subject allegation.⁴ Based on the ARB discussions, NRC Region I decided to forward all three of the CI's concerns to the licensee for appropriate follow-up and evaluation, and then review the licensee's written response to determine if the licensee adequately evaluated the concerns. Before making that decision, staff in the Division of Reactor Projects (DRP) conducted a historical review of existing allegation records/files involving security-related issues at the Peach Bottom Station.⁵ This included Allegation File 2005-0180 which pertained to a 2005 allegation involving security officers allegedly sleeping in BREs, an allegation that was investigated by the NRC Office of Investigations (OI) and was not substantiated.⁶

NRC Region I determined that there was no immediate safety significance to the assertions in the CI's letter based on the results of the DRP staff review of previously identified security-related issues at the Peach Bottom Station. The ARB participants also questioned the validity of the first concern with respect to the BREs given their physical configuration (an observation tower elevated 40+ feet above ground level and occupied by a single security officer), which indicated that the circumstance of security officers having "witnessed security officers in BRE towers sleeping" was improbable, and given the lack of specific details such as dates/times of particular instances of inattentiveness and security officers involved. From a process standpoint, it is agency policy for an ARB to consider providing technical allegations to a licensee for evaluation since the licensee has primary responsibility for ensuring safe

³ The CI specifically stated in his March 2007 letter that, "I do not want the NRC or its agent to contact me in any manner. ...we feel that you [the NRC] have been provided sufficient information and suggestions necessary to look into this matter." In addition, NRC Region I was aware that the CI's attorney wrote the Region I Senior Allegation Coordinator on April 5, 2006, requesting that all future communications with the CI (about a prior allegation or any other matter) be addressed only to the attorney's office. This request further influenced NRC Region I in its decision not to contact the CI directly about allegation 2007-0040.

⁴ Generally, ARBs are held in the Region I office on a set day and time each week. Ad-hoc ARBs are conducted whenever regional staff determine that one or more concerns contained in a particular allegation warrant a more prompt discussion, such as when a concern could be an immediate safety issue. Generally, ARBs for reactor issues consist of managers from two technical divisions, the Regional Counsel, a representative of the NRC Office of Investigations, the Enforcement/Allegations Team Leader, the Senior Allegation Coordinator, and other technical and administrative staff as needed. The ARB makes decisions regarding the appropriate handling of allegations. In 2007, approximately 350 ARBs were convened by NRC Region I on a weekly and adhoc basis to review matters involving allegations at reactor and nuclear material licensees.

⁵ Documentation in the file for allegation 2007-0040 lists the files reviewed by the DRP staff.

⁶ The NRC Office of Investigations conducts investigations for the NRC staff of licensees, their contractors or vendors, including all allegations of wrongdoing by individuals other than NRC employees and contractors. Substantiated criminal cases developed by OI are forwarded to the Department of Justice for potential prosecution.

operation of its facility and, in most cases, can promptly address issues through ready access to site personnel and documentation related to the issues that are the subject of the allegation.

During the March 29 and April 11 ARBs, the third concern was discussed in the context of a potential wrongdoing issue related to management failure to address security officer inattentiveness. Statements in the CI's letter indicated that the licensee had taken some actions in the past to identify inattentive security officers, such as increased backshift inspections by licensee management, and licensee "employee concerns" staff interviewing personnel in the field regarding security officers sleeping on-duty; however, in the view of the CI, these actions were not sufficient if the licensee "wants to really find out if anyone is sleeping." The ARB noted that the CI's concern was that the licensee had not taken sufficient or proper actions to address the issue of inattentive security officers rather than a concern that the licensee took no action. For this reason, and because the third concern lacked any details or specificity to support a wrongdoing investigation, OI decided not to initiate such an investigation. The ARB concurred with this decision. If the CI had indicated that licensee management took no action in response to concerns of inattentive security officers, or if the CI had provided sufficient details for OI to initiate an investigation on its own, this specific concern would not have been provided to the licensee for review/evaluation.

Based on the ARB discussions and resulting direction, NRC Region I sent Exelon senior corporate management a letter on April 30, 2007, describing the three concerns and requesting that the licensee evaluate each concern and provide a written response to the NRC within 30 days. In its letter, NRC Region I indicated that the NRC would review the licensee's response to determine whether: (a) the individual in the licensee's organization assigned to conduct the investigation was independent of the organization affected by the concerns; (b) the evaluator was proficient in the specific functional area; (c) the evaluation was of sufficient depth and scope; (d) appropriate root causes and generic implications were considered if the concerns were substantiated; and (e) the corrective actions, if necessary, were sufficient.

On the same day that the allegation was provided to the licensee for investigation/evaluation, the NRC Region I Division of Reactor Safety (DRS) began a four-person, one week baseline security inspection at the Peach Bottom Station. However, there was no indication from review of the allegation file and discussions with regional personnel, that representatives at the March 29 and April 11 ARBs considered, during their deliberations, that there was a security baseline inspection planned for April 30 - May 4, 2007.⁷ In hindsight, in conjunction with forwarding the allegation concerns to the licensee for its investigation, the baseline inspection could have been used to follow-up on the allegation, providing additional independence and potentially more information to the agency's review. Based on discussions with three of the four security inspectors who completed the baseline inspection (one inspector has since retired), two of the three inspectors were aware of the subject allegation because

⁷The NRC baseline security inspection program consists of 11 separate inspection procedures conducted in specified time intervals at all NRC licensed reactor facilities. The program is comprised of three parts: inspection of security program areas, verification of performance indicators specific to the security function, and an assessment of the problem identification and resolution function in the area of security. None of the baseline security inspection procedures specifically delineate inspections for security officer inattentiveness, but do require inspectors to monitor security officer performance in all plant areas, both during day and night shifts, and to conduct interviews with security force personnel at their duty stations. The procedures also require reviews of the behavioral observation and fitness for duty programs, as well as security force work hours, all of which are regulatory measures designed to ensure security officer attentiveness.

one of those inspectors participated in the ARB on March 29, 2007. Notwithstanding the significant challenge to identify inattentive security officers via inspection given a BRE's unique configuration, awareness of the allegation specifics by all four inspectors might have provided an opportunity to visit additional security-related areas to look for any indication of inattentiveness.⁸

On May 30, 2007, NRC Region I received Exelon's response to the three concerns forwarded to the licensee in the NRC's April 30 letter. The licensee's review was conducted by two members of the Exelon corporate organization who did not report to Peach Bottom Station management. In summary, Exelon indicated that it did not substantiate any of the three concerns forwarded by the NRC. The licensee's conclusion was based on the following:

- measures exist to reduce the potential for becoming inattentive and to monitor attentiveness, such as periodic communication checks with each security officer, a requirement that each officer standup and walk around 2-3 minutes approximately every 15 minutes, and supervisor visits to each stationary post a minimum of twice per shift to further ensure attentiveness;
- the results of interviews with managers and security officers regarding observations of inattentiveness which yielded no substantiating results⁹;
- reviews of corrective action program reports;
- a review of security officer work hour averages over the preceding three months, which showed work hours consistently lower than NRC limits; and,
- Wackenhut and Exelon employee concerns program reports which did not indicate an inability of security officers to adjust to the current shift schedule.¹⁰

⁸All inspectors are trained on the importance of looking for problems during their inspections, not just in planned areas of review, but any area that they may encounter, and inspectors have often found problems in areas that were not part of their planned review. For example, NRC Region I resident inspectors, during routine tours at Indian Point and Beaver Valley in 2007, identified inattentive security officers. Although the resident inspectors at Peach Bottom were aware of the March 2007 allegation since they had received the allegation letter in the mail, sensitizing the regional security inspectors to this allegation might have allowed for an additional opportunity to detect security officer inattentiveness. However, as clearly noted by the CI in his March letter, security employees were supposedly aware of measures taken by the NRC and Exelon to identify inattentiveness in the past, including back shift inspections by the NRC, suggesting that such additional inspections would have been ineffective in identifying inattentive security officers. In fact, the alleged recommended five covert tactics (e.g., installing hidden cameras in the BREs, observing the BREs using high power optics from concealed locations on the hillside behind Peach Bottom, or having NRC staff go undercover and join the Wackenhut security force at Peach Bottom) that the NRC could use to detect inattentive security officers in the BREs, measures which the NRC does not currently employ and which could place inspectors in harm's way (e.g. undertaking surreptitious actions that could startle armed security officers).

⁹The NRC subsequently learned that all of the inattentive officers shown in a video provided to the NRC months later, were part of the same shift, and that none of the members of that shift were interviewed by Exelon because that shift was off duty at the time the interviews were conducted (refer to Section IV for a discussion of the NRC's receipt of the subject video).

¹⁰Most reactor licensees and large independent contractors have internal Employee Concerns Programs (ECPs) which allow employees to confidentially report problems outside their line organization. Such programs are voluntary and not required by the NRC.

The licensee's written response was reviewed by a DRS security specialist inspector in NRC Region I who determined that he needed to contact a licensee security manager regarding one of the actions described by the licensee, namely periodic communication checks with the security officers. The information specific to this action, provided by the licensee in its response letter, was unclear and was important because such checks can help detect inattentive security officers in remote locations. The DRS reviewer contacted the licensee's security staff at the Peach Bottom Station on June 11, 2007, and learned that the communication checks were random, and also learned that the licensee performed "command calls" that require all security officers to physically stand for at least two minutes. Therefore, based on the licensee's May 30, 2007 written response, as well as the supplemental information verbally provided to NRC Region I, the DRS representative concluded that the licensee's response to the concerns was thorough and complete, and so informed DRP, which had project responsibility for bringing the allegation file to closure. Consistent with past practice in both the NRC Region I Office and the other regional offices, this closure decision was not discussed at an ARB prior to generating a closure memorandum to file.¹¹

As a result, a closure memorandum to file was prepared by a DRP Senior Project Engineer based on the input from the DRS security specialist inspector who reviewed the licensee's response, and the allegation file was administratively closed via that memorandum on August 22, 2007, after being concurred in by a DRP Senior Project Engineer (concurring as the acting Branch Chief), the responsible DRS Branch Chief, and the Senior Allegation Coordinator.¹²

A graphic summary of the NRC's allegation process is provided as Attachment 2.

IV. NRC Region I's Handling of the September 2007 Allegations (2007-0118 and 2007-0121) Regarding Inattentive Security Officers

On September 10, 2007, 19 days after the March allegation (2007-0040) was closed, the NRC Region I Public Affairs Officer received an allegation (tracked as Allegation File 2007-0118) from a WCBS-TV reporter indicating that he possessed a video which showed inattentive security officers at the Peach Bottom Station. An adhoc ARB was promptly convened on September 10, and because the reporter did not provide any specifics, one of the decisions of the ARB was to contact the reporter that same day for additional information. NRC Region I staff contacted the reporter, but he did not provide any additional details. A second adhoc ARB was convened on September 10, and given that the reporter indicated he had video evidence of multiple inattentive security officers, the ARB determined that this matter posed a potential immediate security concern. As such, the ARB directed NRC Region I staff to contact Exelon as soon as possible and inform the licensee of the allegation. The licensee was contacted later that day. As a result of the ARB discussions, the resident inspectors assigned to the Peach Bottom Station began increased monitoring of security officer activities, which included conducting

¹¹NRC Region I does not typically convene an ARB to discuss/review a licensee's response to an allegation. This is done on a case-by-case basis when substantive questions arise regarding the adequacy of the licensee's response, and hence there is the need for supplemental information from the licensee. The other three NRC regional offices were contacted as part of this review, and like the Region I Office, none of the other regional offices routinely convene an ARB to discuss/review a licensee's allegation response. However, one regional office does have a Division Director or Deputy Director (a Senior Executive Service member) review/sign all allegation closure memorandums to file or closure letters to the allegor.

¹²As noted earlier, the CI indicated he did not desire any NRC contact; hence, a closure memorandum to file was generated vice a letter to the CI documenting the results of the NRC's evaluation of the allegation.

off-hours inspection checks of security officers for inattentiveness. No instances of inattentive security officers were identified.

During a subsequent telephone conversation on September 12, 2007, the reporter informed NRC Region I that the video in his possession was approximately 10 minutes in length and showed inattentive guards in the ready room. An adhoc ARB was convened on September 12, and NRC Region I decided to forward this information to Exelon in support of its ongoing investigation. Given the information provided by the reporter, NRC Region I was concerned that multiple security officers would have had to collaborate to conceal their inattentiveness.

On September 18, 2007, a telephone conference was conducted between Exelon and the NRC in order for the licensee to provide a status of its investigation into the allegation of inattentive security officers. During the conference call, the licensee informed the NRC staff that during its interviews with various security officers, several officers had identified a particular security officer that they each believed had taken video clips of other security officers in the spring of 2007. When this particular individual was interviewed by the licensee and confronted with this information, the security officer indicated that he was terminating the interview and stated that he would not answer any questions without the NRC present. Based on this information, NRC Region I staff promptly convened an adhoc ARB at the conclusion of the conference call with the licensee. Per direction from the ARB, NRC Region I staff contacted the subject security officer to obtain more information. Coincidentally, the security officer had contacted NRC Region I to provide a number of concerns, principally that he had observed inattentive security officers on a number of occasions (tracked as Allegation File 2007-0121). On September 19, 2007, the reporter permitted NRC Region I staff to view the video, which consisted of two separate clips, showing several security officers, on more than one occasion, in a state of inattentiveness in what appeared to be the “old” ready room at the Peach Bottom station.¹³ After viewing the video clips, another adhoc ARB was convened to determine appropriate follow-up action.

Subsequently, on September 20, 2007, in light of the allegation concerns provided by the security officer on September 18, and NRC Region I viewing the video clips on September 19, an Augmented Inspection Team (AIT) was chartered to review the overall matter of inattentive security officers at the Peach Bottom Station.¹⁴

Since September 20, 2007, the NRC has taken a number of actions to more fully understand conditions at the Peach Bottom Station, increase regulatory oversight of security-related activities at that site, and advise other reactor licensees of the agency’s expectations with respect to security officer attentiveness. Specifically, NRC Region I:

- conducted an AIT from September 21 - 28, 2007, which determined that a total of 10 security officers had been inattentive on at least one occasion; the inattentive security officers did have an adverse impact on elements of the defense-in-depth security strategy, but this situation did not significantly degrade the overall security function at the Peach Bottom Station; and prompt compensatory and corrective actions were implemented by Exelon following notification of this matter on September 10, 2007;

¹³ In July 2007, Exelon moved the ready room to a new location with lighting and temperature control more conducive to maintaining attentiveness.

¹⁴ An Augmented Inspection Team (AIT) is an infrequent, reactive inspection conducted for the purpose of event assessment and follow-up. In this case, special agents of the NRC Office of Investigations participated in the AIT for the purposes of assisting the inspectors in conducting interviews.

- sent a letter to Exelon senior management on October 4, 2007, requesting that the licensee submit in writing those actions taken or planned to assure that security officers remain attentive at all times while on duty, that officers are willing and able to recognize instances of inattentiveness and promptly take all appropriate actions, and that supervisors and personnel take the necessary actions to encourage officers and all plant staff to bring forward any concerns;
- issued a Confirmatory Action Letter (CAL) on October 19, 2007, confirming various licensee corrective actions going forward¹⁵;
- conducted weekly conference calls with Exelon to discuss the transition to a proprietary security force and CAL activities¹⁶;
- conducted an AIT follow-up inspection on November 5-9, 2007, resulting in the identification of one potentially greater-than-green finding regarding inattentive security officers and an ineffective behavioral observation program;
- held public meetings with Exelon in the vicinity of the Peach Bottom Station on October 9 and December 3, 2007; and,
- exercised, via a Deviation Memorandum signed by the NRC's Executive Director for Operations on December 13, 2007, existing flexibility in the NRC's reactor oversight process (ROP) to further increase security oversight at the Peach Bottom Station in addition to those resources and inspections already scheduled for 2008.

In addition, the NRC issued a Security Advisory to licensees nationwide on September 27, 2007, re-emphasizing NRC requirements regarding security officer attentiveness to duty, as well as issued NRC Bulletin 2007-01, "Security Officer Attentiveness," on December 12, 2007, to all holders of reactor licenses for the purpose of obtaining information on licensee administrative and managerial controls to deter and address inattentiveness and complicity among licensee security personnel.

Furthermore, with respect to the specific allegation that was received in March (2007-0040), although the associated allegation file had been closed in August 2007, NRC Region I conducted another ARB on September 26, 2007. This ARB was convened since the initial information gathered during the AIT indicated that some security officers had been inattentive in the March 2007 timeframe, which conflicted with the conclusion in the licensee's response to the March allegation (2007-0040) that the allegation could not be substantiated. The matter of inattentive security officers at the Peach Bottom Station and related licensee deficiencies in not identifying inattentiveness, are still under NRC review.

On October 2, 2007, NRC Region I requested that the NRC Office of Enforcement (OE) Agency Allegation Advisor (AAA) conduct an independent review of the staff's handling of Allegation File

¹⁵ A Confirmatory Action Letter (CAL) is a letter issued by the NRC to document or "confirm" actions that a licensee has committed to take in addressing a specific matter. Failure to comply with the terms of a CAL can result in the NRC issuing an Order to the licensee to require specific actions or impose various license conditions.

¹⁶ At the end of September 2007, Exelon decided to terminate its contract with Wackenhut and create a proprietary security force.

2007-0040 to assist in determining any lessons to be learned from a regional allegation process implementation perspective.¹⁷ This independent review was not conducted until November 2007 after the AAA coordinated with the NRC Office of the Inspector General (OIG) who had also initiated a review of this matter. In her report, which is provided as Attachment 3, the AAA concluded that with respect to two of the three concerns forwarded to the licensee for its review/evaluation, NRC Region I evaluated and responded to the concerns in accordance with the requirements and guidance in Management Directive 8.8, “Management of Allegations.” However, with respect to the concern involving licensee management being aware of instances of inattentiveness, but not taking proper actions to address them, the AAA was unable to determine the basis for the staff’s conclusion that the scope and depth of the licensee’s evaluation was adequate to resolve the concern.

V. Evaluation of the Adequacy of the NRC Inspection Program for Detecting Security Officer Inattentiveness

The NRC baseline security inspection program consists of 11 separate inspection procedures conducted at specified time intervals at all NRC licensed reactor facilities. The program is comprised of three parts:

- the inspection of security program areas;
- verification of performance indicators specific to the security function; and,
- an assessment of the problem identification and resolution function in the area of security.

None of the baseline security inspection procedures provide specific direction or guidance with respect to identifying potential security officer inattentiveness; however, the procedures do require inspectors to monitor security officer performance in all plant areas, both during day and night shifts, and to conduct interviews with security force personnel at their duty stations. These inspections also include a review of the quarterly security logs, which list, among other information, any instances of security officer inattentiveness identified by the licensee. These procedures also require reviews of the behavioral observation and fitness for duty programs as well as security force work hours, all of which are regulatory measures designed to ensure security officer attentiveness.¹⁸

An inspection conducted by DRS security inspectors from April 30 - May 4, 2007, consisted of reviewing records, observing activities, and interviewing the security officer workforce in the areas

¹⁷During this lessons-learned review, NRC Region I also engaged the other three regional offices to discuss their respective actions in determining if any allegation process implementation gaps exist given the events at Peach Bottom. NRC Region II is conducting a historical review of security-related allegation concerns; Region III conducted a review on a site-by-site basis in order to determine if similarities exist between its licensees and the situation at Peach Bottom; and, Region IV conducted a review of allegations received over the last two years aimed at identifying any programmatic issues in the allegation process, and to identify any security or inattentive staff findings that merited additional scrutiny. The results and recommendations of those reviews are provided as Attachment 4 to this report.

¹⁸The procedures examined were: Inspection Manual Chapter (IMC) 2201, “Security and Safeguards Inspection Program for Commercial Power Reactors”; Inspection Procedures (IP) 71130.01 - Access Authorization, .02 - Access Control, .03 - Contingency Response, .04 - Equipment Performance, .05 - Protective Strategy Evaluation, .07 - Security Training, .08 - Fitness For Duty Program, .09 - Owner Controlled Area Controls, .10 - Information Technology Security, .11 - Materials Control and Accountability, and .12 - Physical Protection of Shipments of Irradiated Fuel.

of access control; security equipment performance, testing, and maintenance; security training; and owner-controlled area controls. The inspectors toured a number of security-related areas at the site, including three BREs, as part of this baseline inspection. No inspection findings related to security officer inattentiveness were identified during these inspections. Based on discussions with three of the four security inspectors who completed this baseline inspection (one inspector has since retired), two of the three inspectors were aware that NRC Region I had received the March allegation, but only because one of the two inspectors participated in the ARB on March 29, 2007. As mentioned earlier, the scope of this inspection was not modified based on the March allegations.

The NRC resident inspectors also conduct a variety of inspections at each licensed site. The resident inspectors are stationed at their assigned site full-time, and conduct inspections on occasions during weekends and backshifts. The resident inspectors observe and inspect licensee activities in all functional areas, including security. Under Inspection Manual Chapter (IMC) 71152, "Identification and Resolution of Problems," resident inspectors are instructed to review licensee corrective action system reports, including a sampling of reports related to the security program. The inspectors also note the performance of security officers in the course of entering and touring the site.¹⁹ The NRC is currently in the process of evaluating whether the role of the resident inspectors in verifying attributes of security program performance should be expanded.²⁰

However, as clearly denoted by the CI in his March letter, security officers were supposedly aware of measures taken by the NRC and the licensee to identify inattentiveness in the past, including back shift inspections by the NRC, suggesting that such additional NRC inspections would not have been effective in identifying inattentive security officers.²¹ The resident staff at the Peach Bottom Station confirmed that they had not observed any indication of inattentive security officers in the March - September 2007 timeframe in the course of their inspection activities, which involved tours of a number of plant areas on several occasions.

Observations and recommendations resulting from this lessons-learned review are provided as Attachment 1.

¹⁹ As indicated in footnote No. 7, all inspectors are trained on the importance of looking for problems during their inspections, not just in planned areas of review, but any area that they may encounter, and inspectors have often found problems in areas not part of their planned review. For example, Region I resident inspectors, during routine tours at Indian Point and Beaver Valley in 2007, identified inattentive security officers. Although the resident inspectors at Peach Bottom were aware of the March 2007 allegation since they had received the allegation letter in the mail, they were not directed via the ARB to focus additional efforts to identify inattentive security officers in the BREs or other areas.

²⁰ An "Adhoc Working Group on Security Inspections by Resident Inspectors", led by the Office of Nuclear Security and Incident Response (NSIR), prepared a report identifying ways for resident inspectors to become more involved in security inspections at their sites. The options proposed remain under agency review.

²¹ As noted earlier, in his March 2007 letter, the CI recommended five covert tactics (e.g., installing hidden cameras in the BREs, observing the BREs using high power optics from concealed locations on the hillside behind Peach Bottom, or having NRC staff go undercover and join the Wackenhut security force at Peach Bottom) that the NRC could use to detect inattentive security officers in the BREs, measures which the NRC does not currently employ and which could place inspectors in harm's way (e.g. undertaking surreptitious actions that could startle armed security officers).

Attachment 1

OBSERVATIONS AND RECOMMENDATIONS

A. Process for Forwarding Allegations to a Licensee, Evaluating Licensee Responses, and Documenting the NRC Evaluation of the Licensee Response:

1. OBSERVATION - The third of the three concerns in Allegation File 2007-0040, as summarized from the alleged's (hereafter referred to as the concerned individual, or CI) letter, was that licensee management was aware of security officer inattentiveness, but was not taking proper action. NRC Management Directive 8.8, "Management of Allegations," which provides guidance on the handling of allegations, states that allegations made against a licensee's management or those parties who would normally receive and address the allegation, should not be referred to licensees. Wrongdoing issues normally result in an investigation by the NRC Office of Investigations (OI) when sufficient details are provided to reach OI's threshold for opening an investigation.¹ However, the alleged concern was a general statement without any specifics to allow for OI to open an investigation. Since the Allegation Review Board (ARB) decided to honor the CI's request that he not be contacted in any manner, NRC Region I did not attempt to obtain any specifics from the CI that may have formed the basis to initiate an OI investigation. Given the general nature of the statement, NRC Region I decided to provide this concern to Exelon for investigation along with the other two concerns.

RECOMMENDATION - The NRC Office of Enforcement (OE) should evaluate the NRC practice of honoring concerned individual's (CI's) requests not to be contacted unless there is a clear and immediate nuclear safety issue, to determine if additional guidance is needed. The NRC views CIs as an important element in helping to ensure nuclear safety. Therefore, it is important to maintain a good relationship with CIs and be sensitive to their requests. However, in hindsight, additional contact with the CI (via telephone or, if necessary, mail) would not have compromised the CI's identity and may have resulted in the NRC obtaining more specific information to support additional NRC action in this matter, such as the location of other areas besides the Bullet Resistant Enclosures where security officers were inattentive (i.e., the ready room), as well as other information provided to the CI by the security officers he stated that he represented.

2. OBSERVATION - One of the factors to consider in the ARB's decision to provide an allegation to the licensee is the licensee's past performance in dealing with allegations, including the likelihood that the licensee would thoroughly investigate, document, and resolve the allegation. Allegation File 2007-0040 indicates that the history of previously dispositioned security allegations was reviewed, but it does not document how that history was considered in the decision to forward the allegation concerns to the licensee.

RECOMMENDATION - NRC Region I, the other regional offices, and OE should evaluate whether the ARB disposition form, drafted by the responsible division prior to an ARB, should be revised to provide an additional section that describes: (1) the history/trends of related allega-

¹ OI's threshold for opening an investigation is "specific indication of wrongdoing beyond mere suspicion." Also, refer to Section III regarding the ARB discussion with respect to whether the CI claimed the licensee was "ignoring" inattentive security officers (clearly a wrongdoing matter), or not taking sufficient or proper action.

tions at the facility (i.e., number of allegations at the facility in the last two years, substantiated OI cases, and whether a large percentage of concerns are focused in the area that is the subject of the allegation) as well as related inspection findings; and, (2) how those inspection findings and the allegation history were considered in the decision to forward the concern(s) to the licensee. Such information could be periodically retrieved from the NRC Allegation Management System (AMS) and Reactor Planning System (RPS) and provided to the responsible division.²

3. OBSERVATION - The April 30, 2007, letter forwarding the allegation concerns to Exelon requested that the licensee ensure that:

- the individual in the licensee’s organization assigned to conduct the follow-up investigation was independent of the organization affected by the concerns;
- the evaluator was proficient in the specific functional area;
- the evaluation was of sufficient depth and scope;
- appropriate root causes and generic implications were considered if the concerns were substantiated; and,
- the corrective actions, if necessary, were sufficient.

However, the NRC letter to the licensee did not request that the licensee describe in its response specifically how each of these attributes was satisfied. The letter also did not request that if individuals were interviewed as part of the licensee’s review, the licensee’s response include a description of how the sample of employees interviewed was sufficiently large and varied to ensure the sample was a representative cross section of the organization or individuals involved. Finally, the letter did not ask the licensee to discuss why the interviews were sufficiently rigorous to likely identify any issues. In this case, the licensee interviewed nine security officers and five Exelon managers, who the licensee considered likely to encounter security officers during routine supervisory observations. However, the NRC learned during the AIT that no members of the crew in which security officers were captured on video as inattentive were interviewed as part of the licensee’s investigation into the March allegations due to scheduling issues. Also, as noted by the AAA in her independent review of this matter (refer to Attachment 3), it was not clear whether the interviews referred to by the licensee in its response were of sufficient rigor to identify whether all incidents of inattentiveness were reported.

RECOMMENDATION - NRC Region I has revised its standard letter to forward concerns to licensees to include the following statement: “Your response should describe how each of these attributes were satisfied, and if interviews of individuals were conducted as part of your review, include the basis for determining that the number and cross section of individuals interviewed, as well as the scope of the interviews, is appropriate to obtain the information necessary to fully evaluate the subject concern(s). The NRC will consider these factors in reviewing the adequacy of your evaluation of this concern(s).” This change should be evaluated by OE for incorporation into agency guidance.

² NRC Region IV recommended from its allegation process review that “management expectations for Branch Chief responsibilities associated with tracking and trending allegations should be clarified and captured in appropriate agency procedures. Additional tools and training should be made available as necessary.”

4. OBSERVATION - NRC Region I provided limited information to Exelon regarding the range of measures security officers allegedly took to avoid being detected when they were inattentive, presumably in an effort to protect the identity of the CI, as well as those individuals that the CI indicated had provided information to him. These measures included: (1) reclining in a chair or lying on the floor of the Bullet Resistant Enclosures (BREs), out-of-sight while being protected from discovery by sitting or lying on the BRE hatch door; and, (2) taking 10 to 15 minute power naps, depending on radio transmissions, then waking momentarily for radio checks. Providing this information may have prompted the licensee to consider other approaches to validating the CI's concerns.

RECOMMENDATION - NRC Region I, the other regional offices, and OE should evaluate whether sufficient descriptive information is provided to a licensee when available, particularly in matters involving inattentiveness (which are typically very difficult to prove), to maximize the effectiveness of the licensee's investigation without revealing the identity of the CI.

5. OBSERVATION - The licensee's response to the third concern regarding licensee management being aware of instances of inattentiveness but not taking proper action, indicated that the licensee had identified instances of inattentiveness in the past and had taken appropriate action. However, the response provided to the NRC did not provide any specifics regarding the referenced past incidents of inattentive behavior, or the actions taken by the licensee in response to these incidents.³ NRC Region I does not routinely discuss licensee responses to allegations at an ARB. Management Directive 8.8, "Management of Allegations," does not require such ARBs. NRC Region I only exercises this process flexibility when the responsible division determines there is a need for such an ARB based upon concerns with the licensee's response that calls into question the overall adequacy of that response. Such ARBs have been conducted when licensee responses were initially considered to be inadequate based upon divisional review.⁴

NRC Region I contacted the other three NRC regional offices and determined that they also do not routinely discuss licensee responses to allegations at an ARB. As a result, in most cases, the NRC assessment of the adequacy of the licensee evaluation is based on the results of the review by the responsible division and any review conducted by another division and/or the Senior Allegation Coordinator.⁵ A follow-up ARB would provide all ARB participants, including the ARB Chairman, a formal opportunity to critique the licensee's response as well as the basis for closure, before actual closure of the file, in order to determine whether the licensee's response was sufficiently comprehensive. It would also identify what, if any, further NRC/licensee engagement and/or independent NRC follow-up action is warranted.

³ The DRS security specialist inspector who reviewed the licensee's written response did not probe the licensee for that information given his knowledge, based on five years experience inspecting and/or reviewing security-related issues in NRC Region I, that instances of security officer inattentiveness at Exelon facilities had occurred infrequently and had been properly addressed.

⁴ In 2007, NRC Region I licensees were formally requested to supplement their response on five occasions when follow-up ARBs questioned their adequacy.

⁵ As indicated in footnote No.11 in Section III of this report, one regional office does have a Division Director or Deputy Director review/sign all allegation closure memorandums to file or closure letters to the alleged, providing senior agency manager level review of the licensee's response.

RECOMMENDATION - NRC Region I, and from a more programmatic perspective, OE, should evaluate its allegation program, procedures, and practices to determine whether they should be changed to require a more structured review process, with additional senior management review, of licensee responses to allegations provided by the NRC. Such a process might include a formalized checklist to verify the adequacy of a licensee response, coupled with either a review by an NRC senior manager, or a follow-up ARB. This would provide for an additional critique of the licensee's investigation results, as described in its written response to the NRC, to better determine whether the licensee's evaluation was sufficiently comprehensive and whether any additional NRC follow-up action is warranted.

B. Communications/Interactions with Concerned Individual(s):

1. OBSERVATION - Since the ARB decided to honor the CI's request that he not be contacted in any manner, the NRC did not attempt to obtain any specifics from the CI to support additional NRC action, such as an OI investigation, nor did the NRC provide the CI with the results of its allegation follow-up.

RECOMMENDATION - NRC Region I, and from a more generic programmatic perspective, OE, should evaluate its allegation program, procedures, and practices to determine whether there needs to be more flexibility in honoring requests from a CI that they not be contacted. As noted in Observation A.1, notwithstanding the CI's request not to be contacted, in hindsight, additional contact with the alleged (via telephone or mail) would not have compromised the CI's identity and may have resulted in the NRC obtaining more specific information to support additional NRC action in this matter. In addition, contact with the CI to provide the results of the allegation review, including the NRC conclusion that it was unable to substantiate the CI's concerns, may have resulted in additional information being provided by the CI.

2. OBSERVATION - The structure of NRC Region I closure memorandums to file and closure letters to CIs is such that each concern is described, followed by the results of the NRC's evaluation of the concern. This structure is used for those concerns forwarded to the licensee for review and evaluation, as well. The structure does not include a section describing the licensee evaluation of, and response to the concern, and a separate section addressing the adequacy of the licensee's response to the concerns. This approach would provide an additional tool to ensure a more thorough review of the licensee's evaluation.

RECOMMENDATION - The NRC regional offices, in coordination with OE, should evaluate their respective procedures and practices to determine whether the closure memorandum and closure letter, for concerns forwarded to the licensee, should be structured to address the following four categories of information: (1) Concern; (2) Licensee Evaluation of, and Response to the Concern; (3) Adequacy of the Licensee Response to the Concern; and, (4) NRC Assessment of the Concern.⁶

⁶At least one other regional office currently structures their closure letters/memorandums in this manner. NRC Region IV also recommended from its allegation process review that "a heightened sensitivity should be encouraged and exercised by the individuals that are responsible for closing the concerns to fully document how each issue was resolved. Include offline discussions and verifications to clearly document how the concerns were resolved."

C. Inspection Process for Detecting Inattentiveness and Inspector Awareness of Allegations

1. OBSERVATION - In his March 2007 allegation (2007-0040), the CI recommended that the NRC undertake a range of “covert” measures to detect security officer inattentiveness, measures which the NRC has not implemented in the past and which would have a variety of legal and personal safety implications. There is a high degree of difficulty in verifying certain licensee employee behaviors or activities, such as inattentiveness on back shifts in remote locations. Given the configuration of the BREs, as well as the layout of the old ready room at the Peach Bottom Station, observations by inspectors using typical inspection techniques to detect inattentiveness in these security facilities would most likely have been unsuccessful.

RECOMMENDATION - Given that licensees may elect to implement additional surveillance methods for inattentiveness in response to Bulletin 2007-01, “Security Officer Attentiveness,” (e.g., closed circuit cameras in BREs and ready rooms), the NRC’s program Office of Nuclear Security and Incident Response (NSIR) should consider evaluating the information provided by these surveillance methods in the future, when appropriate.

2. OBSERVATION - On the same day that the concerns provided to the NRC in March were forwarded to Exelon for review, investigation, and response, NRC Region I initiated a baseline inspection of the security program at the Peach Bottom Station. However, security specialists on that inspection were only knowledgeable of this allegation because one of the specialists happened to participate in the first ARB for this allegation. Thus, the security specialist inspectors did not specifically focus on looking for indications of inattentiveness during their inspection.

RECOMMENDATION - The NRC regional offices should evaluate their respective procedures and practices to determine whether region-based inspectors should be apprised of pertinent open allegations pertaining to the licensee of a facility they are scheduled to inspect. Currently, in the course of preparing for such inspections, region-based inspectors are only informed of allegations they were assigned to review by an ARB.

3. OBSERVATION - The resident inspectors assigned to the Peach Bottom Station were cognizant of the CI’s concerns since the March letter was sent to them and they completed the Allegation Receipt Report, forwarding the concerns to the allegation staff in the NRC Region I office. Although a resident inspector’s primary role is to look for problems with equipment, procedures, or people, no specific direction was provided to the resident staff by the ARB to give greater scrutiny to security officers being attentive during their routine inspector tours of the site.

RECOMMENDATION - The NRC regional offices should evaluate their respective procedures and practices to determine whether resident inspectors are informed of all allegation concerns specific to their assigned site, and the actions resulting from an ARB, so they are sensitive to the concerns in the course of their routine inspections, maximizing the opportunity to validate those concerns.

D. Conclusions and Next Steps

The lessons-learned review team concluded that the NRC followed its allegation process in response to two of the three concerns communicated to the NRC in March 2007. With respect to the third concern that licensee management was aware of instances of inattentiveness, but did not take proper actions to address them, the review team concluded that the staff should have conducted a more thorough review of the licensee's response in determining if the licensee's evaluation was adequate to resolve the concern. In addition, the review team identified some allegation process flexibilities which could have been exercised that may have resulted in additional information as part of the NRC's efforts to validate the concerns expressed in the March allegation. However, it is not apparent that obtaining more information from the licensee with regard to its response to the allegation concern, or exercising these process flexibilities, would have resulted in a different overall conclusion regarding the validity of the March 2007 allegation, or have resulted in the NRC identifying the unacceptable security officer behaviors before the events of September 2007.

With respect to the NRC's program for inspecting security at nuclear power plants, the review team noted that none of the inspection procedures provide specific direction or guidance with respect to identifying potential security officer inattentiveness; however, the procedures do require inspectors to monitor security officer performance in all plant areas, both during day and night shifts, and to conduct interviews with security force personnel at their duty stations. These procedures also require reviews of the behavioral observation and fitness for duty programs, as well as security force work hours, all of which are regulatory measures designed to ensure security officer attentiveness. The review team noted that no inattentiveness issues were identified during an NRC inspection of the licensee's performance in the security area that was conducted in April/May 2007. However, the scope of this inspection was not modified based on the information provided to the NRC in the March allegation. Due to the unique layout of security facilities, such as bullet resistant enclosures and ready rooms, it may be necessary to employ means other than typical NRC inspection techniques, to detect security officer inattentiveness.

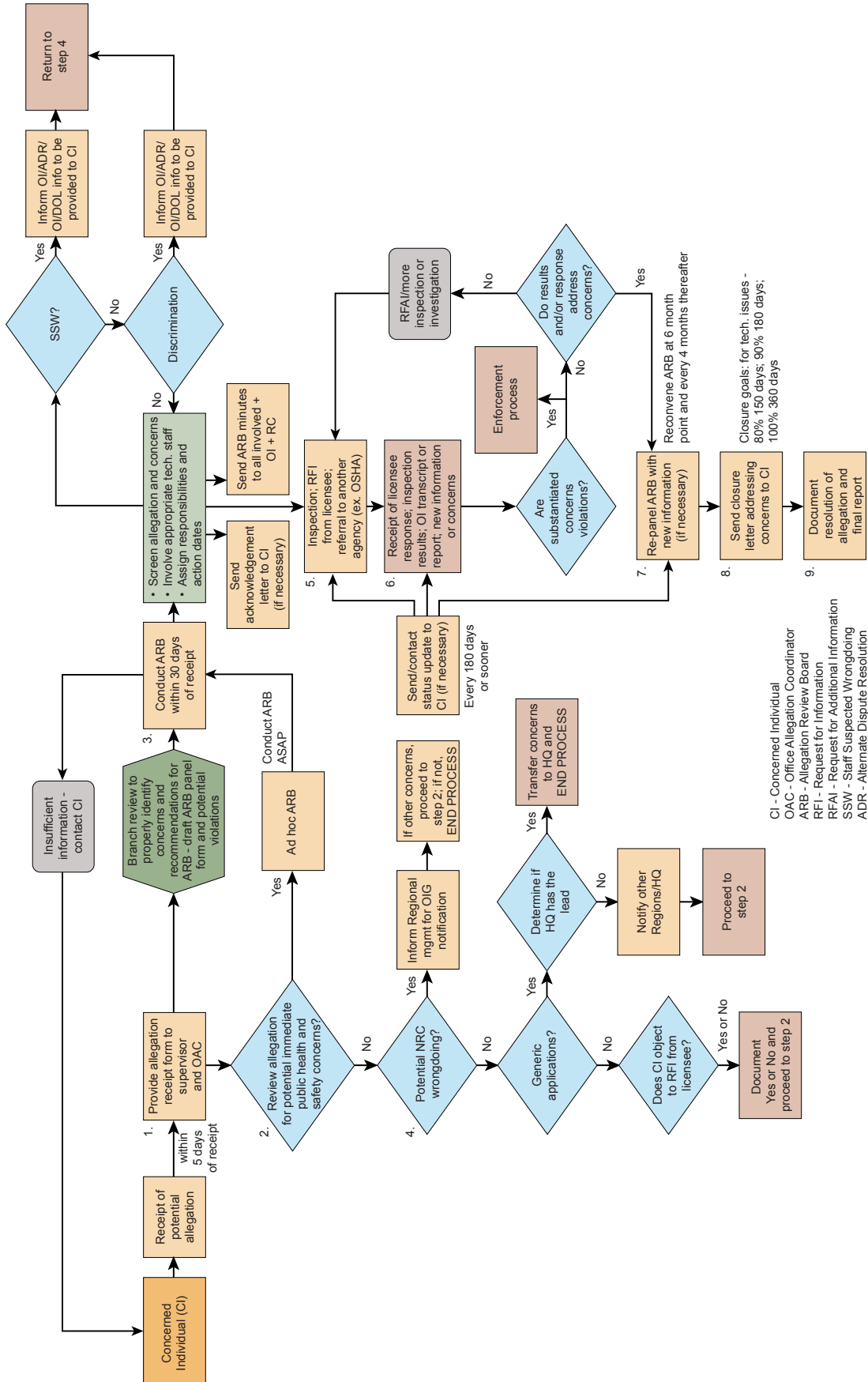
Finally, the review team concluded that the NRC took significant and timely regulatory actions to address evidence of inattentive security officers provided to the NRC in September 2007.

Regarding NRC follow-up actions deriving from the results of this lessons-learned review, the following next steps are proposed:

1. The lessons-learned report be forwarded to the agency Lessons Learned Oversight Board (LLOB) for the board's evaluation of whether the report recommendations contained therein meet the criteria of Management Directive 6.8, "Lessons Learned Program", for designation as an agency lessons-learned item.
2. NRC Region I evaluate the recommendations set forth in this lessons-learned report, and make allegation program procedure and process changes as necessary. To date, NRC Region I has sensitized the staff on the need to carefully document the basis for forwarding allegation concerns to licensees; maximize opportunities to inspect concerns in conjunction with the baseline inspection program in order to ensure independent NRC review; and thoroughly evaluate licensee responses to concerns forwarded to the licensee for evaluation/review.

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3. The NRC Office of Enforcement, as the program office responsible for allegation policies,
 - a. consider the recommendations in this lessons-learned report and the results of the independent review conducted by the AAA (see Attachment 3), to determine if any changes to the allegation program and/or implementing guidance should be made;
 - b. coordinate with NRC Region I and share the results of this lesson-learned report with all regional and headquarters offices involved in handling allegations; and,
 - c. for any recommended changes, determine whether additional resources are needed to implement the changes and quantify these resource needs.

ALLEGATION PROCESS FLOWCHART



Attachment 3

January 28, 2008

MEMORANDUM TO: Samuel J. Collins, Regional Administrator
Region I

FROM: Lisamarie L. Jarriel, Agency Allegation Advisor /RA/
Office of Enforcement

THRU: Cynthia A. Carpenter, Director /RA/
Office of Enforcement

SUBJECT: RESULTS OF ASSESSMENT OF ALLEGATION RI-2007-A-0040

On November 7-8, 2007, I performed an independent assessment, at the Regional Administrator's request of Region I's implementation of the NRC's Allegation Program as it relates to allegation number RI-2007-A-0040, received March 27, 2007. The assessment, consisting of the review of the allegation file and discussions with members of the Region I staff, was conducted against the requirements and guidance of Management Directive (MD)8.8, "Management of Allegations," including a review against referral and evaluation criteria.

On November 8, 2007, I met with the Regional Administrator and members of his staff to present the preliminary results of the assessment. In general, I found the allegation was handled in accordance with allegation process guidance, with the exception of one issue related to the sufficiency of the staff's evaluation of one of the three concerns. This issue is discussed below.

Request for Information to the Licensee Regarding Allegation Concerns

The concerns raised by the alleger included:

- 1) Security officers regularly sleeping on duty in the bullet resistant enclosures (BREs) and other areas due to fatigue from excessive overtime;
- 2) Security officers fearful of retaliation for reporting concerns internally or to the NRC, and;
- 3) Security officers believing that the NRC and licensee already know they are sleeping but don't want to address the issue.

In addition, the alleger commented that, "The officers have to wake the sleeping officers up and feel they are becoming part of a cover-up by not reporting these incidents." On April 30, 2007, regional management sent the licensee a request for information regarding concern 1 and the aspects of concerns 2 and 3 related to licensee management.

MD 8.8 addresses such requests for information or evaluation. Evaluations are not requested if doing so, among other things, could compromise an investigation or inspection because of knowledge gained from the request, or an independent review could not be assured because the party to which the request is being made is alleged to have been directly involved in the issue. The guidance also says that if an allegation raises an overriding safety issue the NRC will request an evaluation by the licensee regardless of any factor mentioned above.

Both concern 1 and 3 include vague assertions of wrongdoing. According to interviews with the Regional Field Office Director, the Office of Investigation (OI) will not initiate an investigation without specific indications of wrongdoing, such as dates of the infractions and the names of individuals involved in the alleged wrongdoing. Typically, in the absence of such specifics, additional information is sought from the alleged or by inspection. MD 8.8 also indicates that in the absence of such information the concern can be closed without further evaluation. Given that concerns 1 and 3 did not include the necessary level of specificity, additional information was needed for an investigation of wrongdoing to proceed. The alleged in this case explicitly requested that the NRC not contact him with regard to his concerns. Therefore, honoring the alleged's request, the staff did not ask him for further information to support his assertions of wrongdoing. Rather, the region requested information from the licensee, after first removing inferences to wrongdoing.

With regard to the alleged's first concern, the region requested information from the licensee regarding the assertion that officers were routinely sleeping due to fatigue. The assertion that such incidents were being "covered up" was not included in the request for information. Similarly, the region requested information from the licensee concerning the third concern regarding the appropriateness of actions taken to address known incidents of inattentiveness. As with concern 1, the region did not share with the licensee the vague assertion that the licensee knowingly did nothing to address such incidents.

My assessment found that the region's request for information to the licensee was in accordance with MD 8.8 in that, a) the concerns involved an overriding safety issue that needed prompt attention by the licensee, b) specific wrongdoing assertions were not shared with the licensee, c) no OI investigation was planned due to the vagueness of the wrongdoing assertions, therefore, compromise of such was not an issue, d) concern 1 focused on wrongdoing by the security officers who were contractors, not licensee personnel, and, although concern 3 concerned licensee personnel, the request for information was made to senior licensee management, far removed from direct oversight of the security organization, and e) the area of concern was focused on the BREs and the logistics required to successfully evaluate and substantiate sleeping in these areas necessitated the licensee's involvement.

Although not associated with assertions of wrongdoing, it should be noted that information was also requested about the licensee's safety conscious work environment (SCWE) to help evaluate concern 2 regarding security officers' fear of retaliation. The NRC regularly monitors the licensee's SCWE using insights from allegation trends, and inspections involving interviews, observations, and document reviews. In the absence of corroborating information indicating challenges to the work environment, it is appropriate to request information about such concerns from the licensee. Each request for information from the licensee includes direction to the licensee that the evaluator be independent of the organization involving the alleged concern. For each of the concerns, personnel independent of security contractor and licensee line management reportedly conducted the evaluation.

Assessment of the Licensee's Response and Staff Evaluation of Concern

Management Directive 8.8, Section I.D.7 articulates expectations for the NRC staff review of the licensee's response to requests for information. This section states:

“NRC should ensure that a licensee's response is adequate. If a thorough review by the licensee is not conducted, it may be necessary for NRC to inspect or investigate the licensee's conclusions and assertions. The scope and depth of the NRC's verification should be predicated on many factors, such as, but not limited to, the licensee's past performance, the safety significance of the matter, and the level of licensee management possibly involved in the matter.”

With regard to the regional staff's review of the licensee's response to the concerns discussed above, documents reviewed in the allegation file and interviews with key reviewers indicated that the regional staff applied their knowledge of the licensee's past performance to appropriately inform their review and that follow up was conducted on at least one specific aspect of the licensee's response. The staff's evaluation and response to concerns 1 and 2 were in accordance with the requirements and guidance in MD 8.8. With respect to concern 3, however, I was unable to determine the basis for the staff's conclusion that the scope and depth of the licensee's evaluation was adequate to resolve the concern.

In response to concern 3, the region's memo to file closing the allegation stated that the licensee's response to this concern was “reasonable with supported conclusions.” The licensee stated that they conducted interviews of personnel likely to encounter inattentive security officers, should they exist, and further that all reported incidents of security officers sleeping on duty were taken seriously, aggressively investigated, and corrected. However, with regard to the latter statement, the licensee's documented response did not provide corroborating evidence to support its claim. It is not clear, based on my review of the allegation file and interviews with regional staff, that additional supporting information was provided or sought concerning the specific inattentive instances identified by the licensee, the nature of the investigations conducted, the corrective actions taken, or the effectiveness of those corrective actions. It also was not clear whether the interviews referred to by the licensee were of sufficient rigor to identify whether all incidents of inattentiveness were reported. Therefore, I was not able to determine the basis for the conclusion that incidents of inattentiveness were reported and proper actions were taken by the licensee in response to those incidents. It should be noted that it is not clear whether obtaining additional information with regard to this specific concern would have impacted the staff's overall conclusions regarding this allegation.

In summary, the assessment found that allegation RI-2007-A-0040 was handled in accordance with MD 8.8 related to requests for information, but I was unable to determine the basis for the staff's conclusion that the scope and depth of the licensee's evaluation was sufficient to resolve one of the concerns raised. If you have any questions, please do not hesitate to contact me.

Attachment 4

SUMMARY OF RESPONSES BY NRC REGIONS II, III, AND IV TO CONCERNS WITH THE HANDLING OF INATTENTIVE SECURITY OFFICER ALLEGATIONS

	Region II (Atlanta)	Region III (Chicago)	Region IV (Dallas-Fort Worth)
Programmatic Reviews and Assessments	Region II is in the process of reviewing their history of providing security allegations to licensees. This information will be used to evaluate any areas for enhancement to the allegation process, and corrective actions developed to disposition responsibilities for any necessary changes.	<p>Region III has audited all security-related allegations received since 2004, including those dealing with inattentive security officers, to identify best practices and opportunities for improvement.</p> <p>Region III has asked resident inspectors to evaluate current conditions at each reactor site using the following questions:</p> <ol style="list-style-type: none"> 1. Does the site have a ready room like that at Peach Bottom? 2. If so, has the resident toured the area on backshifts? 3. Has the licensee communicated with site security personnel regarding the importance of remaining attentive? 	Region IV completed a review of allegations received over the last two years. This review aimed at identifying programmatic issues in the allegation program, and to specifically identify any security or inattentive findings that potentially could have been handled more rigorously. During this review, allegations were selected that included security issues, inattentiveness concerns, and cases involving alлегers that were not satisfied with the manner in which the agency handled the allegation.
Recommendations/Improvements/Enhancements	Awaiting completion of Region II audit of security related allegations.	<p>Region III has expanded the dialogue during ARBs dealing with allegations of inattentiveness:</p> <ul style="list-style-type: none"> • The ARB discusses in greater depth whether an allegation of inattentiveness should be sent to the licensee for evaluation or reviewed through inspection/investigation • The ARB considers whether resident inspectors should be asked to perform immediate walk-downs of security posts where officers are allegedly inattentive. • The ARB also considers whether the Region should immediately notify the licensee of alleged inattentiveness to avoid any potential safety or security issues that might be caused by alleged inattentiveness. 	<p>Region IV is currently evaluating the recommendations / enhancements stemming from this review which include:</p> <ul style="list-style-type: none"> • encourage increased sensitivity in providing complete documentation of closure bases; • clarify and document responsibilities for tracking and trending allegations; • ensure identified issues involving inattentive operators/officers have been addressed; • provide a phone call in addition to a closure letter in an effort to provide greater satisfaction of CIs; and, • establish a working group to determine and standardize agency 'best practices' for handling allegations.





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