




UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 22, 2008

OFFICE OF THE
INSPECTOR GENERAL

MEMORANDUM TO: Chairman Klein

FROM: 
Hubert T. Bell
Inspector General

SUBJECT: NRC'S RESPONSE TO SECURITY-RELATED CONCERNS AT
PEACH BOTTOM ATOMIC POWER STATION

Attached is an Office of the Inspector General Event Inquiry that addresses NRC's response to information provided by the Project on Government Oversight pertaining to security-related concerns at Peach Bottom Atomic Power Station.

Please call me if you have any questions regarding the Event Inquiry. This report is furnished for whatever action you deem appropriate. Please notify this office within 120 days of what action, if any, you take based on the results of this Event Inquiry.

Attachment: As stated

cc w/attachment: Commissioner Jaczko
Commissioner Lyons
Commissioner Svinicki
R.W. Borchardt, EDO

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**Office of the Inspector General
Event Inquiry**



**NRC's Response to Security-Related Concerns
at Peach Bottom Atomic Power Plant**

Case No. 07-65

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BASIS AND SCOPE

This inquiry was undertaken in response to information provided to the Office of the Inspector General (OIG) in a September 2007 letter from the Project on Government Oversight (POGO) describing a pattern of on-duty security officer fatigue and inattentiveness at Peach Bottom Atomic Power Station (Peach Bottom). As background, Peach Bottom is located in York County, Pennsylvania, and is owned by Exelon which holds the Nuclear Regulatory Commission (NRC) license for the plant. At the time of alleged inattentiveness by security officers, The Wackenhut Corporation provided the security services for the plant.

In support of its concern, POGO provided OIG a copy of an undated letter postmarked March 20, 2007, that had been given to POGO by a former security manager for The Wackenhut Corporation. The March letter claimed that Peach Bottom security officers were fatigued from working excessive overtime or 12-hour shifts and would cover for each other so they could take naps of 10 minutes or more during shifts. The letter also indicated that (1) past efforts by NRC to identify personnel sleeping on duty had failed, (2) NRC and Exelon were aware that officers were sleeping while on duty, and (3) security officers feared retaliation for raising safety concerns. This letter had been provided to the NRC resident inspector at Peach Bottom in March 2007, and at that time the concerns it relayed were evaluated under the NRC allegation program by the NRC's Region I office, which provides regulatory oversight for Peach Bottom. In August 2007, Region I concluded the concerns were not substantiated, and the region closed the Peach Bottom allegation file.

In September 2007, just prior to OIG's receipt of POGO's letter, the WCBS news station in New York provided a videotape to NRC Region I that depicted inattentive security officers on duty at Peach Bottom. The videotape was broadcast on national television and resulted in considerable congressional and public concern.

This OIG review was undertaken to examine the adequacy of Region I's handling of the March 2007 security-related concerns at Peach Bottom.

BACKGROUND

NRC Allegation Program

The NRC Allegation Management Program establishes a process by which concerns regarding nuclear power plant safety and security received by the NRC will be assessed and addressed.

The Allegation Management Program is administered in accordance with NRC Management Directive and Handbook (MD) 8.8, "Management of Allegations" (February 4, 1999), which provides guidance on program operation from allegation receipt through closure. Typically, one of NRC's first responses to an allegation is to contact the allegor to confirm the details of the allegation and to verify that NRC has correctly interpreted and understood the information provided. Each of the four NRC regional offices and each major NRC program office has an Office Allegation Coordinator (OAC) who is responsible for maintaining contact with allegors and coordinating, facilitating, and maintaining documentation of the allegation process.

MD 8.8 states that there is no threshold for NRC to accept an allegation and that the type and amount of effort required to bring an allegation to closure is a decision made by a regional or office allegation review board (ARB) on a case-by-case basis. According to MD 8.8, the OAC should convene an ARB within 30 days of receiving an allegation to review the allegation for safety significance and determine appropriate NRC followup. In cases of an allegation raising potential immediate public health and safety matters, an emergency ARB is held "as soon as possible."

Typically, an ARB consists of a chairman, an OAC, Office of Enforcement staff, appropriate NRC technical staff, and an Office of Investigations (OI) representative. In addition, an NRC Office of the General Counsel representative or regional counsel must be present at the ARB or must review the ARB decisions when allegations of wrongdoing are discussed.

During the initial meeting, the ARB will (1) affirm whether the concern is within NRC's jurisdiction, (2) assess the safety significance of the concern, and (3) determine the appropriate course of action. NRC may refer the allegation to a licensee for resolution, to OI for investigation if it involves licensee wrongdoing, or to the appropriate NRC staff for inspection. The NRC may also refer the allegation to another Federal agency if the allegation is not within NRC's jurisdiction.

MD 8.8 contains guidance to assist ARBs in determining the appropriate action for handling allegations and states that NRC program offices should refer "as many allegations as possible to the licensee for action and response." However, the directive also identifies specific instances where an allegation should not be referred to licensees. These include allegations against licensee management or against licensee staff who would normally receive and address allegations.

MD 8.8 directs the staff, when contemplating referring an allegation to a licensee, to consider the following:

- Could the release of information bring harm to the allegor or confidential source?
- Has the allegor or confidential source raised objections to releasing the allegation to the licensee?

- What is the licensee's past performance in dealing with allegations, including the likelihood that the licensee will effectively investigate, document, and resolve the allegation?
- Has the alleged or confidential source already taken this concern to the licensee with unsatisfactory results?
- Are resources available within the region or program office to conduct an investigation or inspection?

When an ARB decides to refer an allegation to a licensee, it is conveyed in a referral letter that describes the concerns but does not reveal the alleged's identity. The licensee is asked to provide the results of its review in a written report to NRC. The referral letter also conveys NRC's expectation that the licensee's evaluation be thorough, objective, and of sufficient scope and depth to resolve the concerns.

When the licensee provides its response to NRC, agency staff are expected to review the response to ensure it is adequate. MD 8.8 states that the NRC staff's verification of the licensee's response should consider a number of factors, including the licensee's past performance, safety significance of the allegation, and possibility of licensee management involvement in the allegation and if the licensee's evaluation was conducted by an individual or organizational entity independent of the organization involved in the allegation. MD 8.8 states that if the NRC staff has questions about the licensee's response, staff members may contact the licensee for clarification. In cases where the staff is not satisfied with either the initial response or the followup information, the staff may decide to reconvene the ARB to discuss what followup is needed. If NRC determines the licensee response is not thorough, it may inspect or investigate the response's assertions and conclusions.

If NRC agrees with the adequacy of the licensee's response, it will incorporate the response into a closing memorandum which describes the basis for closing the allegation file. The responsible technical branch chief reviews and concurs in closing an allegation.

DETAILS

I. ALLEGATIONS AT PEACH BOTTOM

April 2005 Peach Bottom Allegation

In response to the concern in the March 2007 letter that past NRC efforts to identify officers sleeping on duty had failed, OIG evaluated whether the security manager had raised similar concerns in the past and the outcome of any concerns raised. OIG learned that in April 2005, while still employed at Wackenhut, the former Wackenhut security manager reported concerns to Region I that were reviewed by an ARB on April 27, 2005, and documented in Region I allegation file 2005-A-0060. The allegation file reflected that the Wackenhut manager reported 10 concerns pertaining to problems with security related equipment such as firearms and inoperable communication radios, security officer training, improper access to personal privacy data, retaliation for raising concerns, and personnel injury while on duty. The allegation file reflected that the ARB referred one concern, which was not within NRC's jurisdiction, to another agency; referred the retaliation complaint to OI; and referred the remaining concerns to the technical staff for evaluation. OIG learned that none of these concerns were substantiated. Also, none of these concerns pertained to security officer fatigue or fitness-for-duty issues.

March 2007 Peach Bottom Allegation

In late March 2007, the same security manager provided the NRC resident inspectors assigned to Peach Bottom a letter that alleged security officers had been sleeping on duty and that officers were coming to work exhausted after working excessive overtime or not being able to adjust to 12-hour shift schedules. The letter, which Region I received on March 27, 2007, stated that due to fatigue, officers were taking naps which lasted 10 to 15 minutes or longer. The length of the naps depended on the frequency of radio transmissions (calls) made by supervisors to check the officers on post. The letter noted that officers would awaken for radio checks and then return to sleep. Because some officers had to wake sleeping officers so they could answer the radio calls, these officers felt that they were part of a "cover-up by not reporting these incidents." According to the letter, security officers had also witnessed officers sleeping in the Bullet Resistant Enclosure (BRE) towers¹ and other areas.

The March 2007 letter further asserted that past efforts by NRC and the licensee to identify security officers sleeping on duty had failed and that neither NRC nor the licensee wanted to "really find out if anyone is sleeping, because they already know they are." According to the letter, past efforts to address sleeping officers included (1) the NRC, licensee, or contractor management conducting night-shift inspections and (2) the NRC referring complaints to the licensee, which resulted in the licensee conducting surveys to question security personnel about officers sleeping on duty. The letter also noted that when questioned during these surveys, security officers would keep "their mouth shut" and that officers were afraid to report concerns because of fear of retaliation.

In the March 2007 letter, the former security manager recommended that NRC approach the sleeping officer issue covertly and suggested several ways to confirm that security officers were

¹ A BRE tower is a fortified, enclosed observation post manned by a security officer whose role is to defend the site from an adversary.

inattentive on duty, including installation of cameras to observe staff in the BRE towers and “personnel staging areas.”² The former manager requested that NRC not contact him and that NRC not inform Exelon or Wackenhut of the letter’s existence.

On March 29 and April 11, 2007, ARBs in Region I considered the Peach Bottom security related concerns and decided to refer these concerns to the licensee. According to ARB minutes, Region I concluded that the security concerns did not pose an immediate safety issue. In a letter dated April 30, 2007, NRC Region I requested Exelon to evaluate the Peach Bottom security concerns.

During this review, OIG learned that from April 30 through May 4, 2007, Region I conducted a security inspection at Peach Bottom. The inspection report did not reference the allegation contained in the March letter and did not include a review of whether Peach Bottom security officers were inattentive while on duty.

September 2007 Peach Bottom Allegation

On September 10, 2007, a television reporter from WCBS telephoned the Region I Public Affairs Officer and claimed he possessed a video of inattentive security officers at Peach Bottom. Based on this telephone call, Region I promptly convened an ARB, which assessed the report of inattentive security officers as a potential significant safety issue. The ARB decided to contact the reporter to obtain additional information and to verbally report the allegation to Exelon. Later that day, the region held a second ARB meeting after learning that the reporter would not provide any details other than the fact that Peach Bottom security officers were inattentive and that he had a video of the inattentive officers. On September 12, 2007, Region I again convened an ARB after having another telephone conversation with the reporter who informed the staff that the video showed inattentive guards in the ready room and that the video was 10 minutes in duration. On September 18, 2007, after learning a security officer had videotaped the inattentive officers, Region I staff interviewed the officer. Also, according to minutes of the ARB meeting on September 18, 2007, since being informed of the inattentive security officers, NRC resident inspectors assigned to Peach Bottom had begun conducting frequent unannounced inspections during day and night hours. On September 20, 2007, Region I staff received and reviewed the video of inattentive security officers in the Peach Bottom ready room and obtained additional information from the security officer who took the video. Also on September 20th Region I convened an Augmented Inspection Team (AIT)³ to review the events surrounding the inattentive security officers at Peach Bottom and the licensee’s corrective actions. The AIT also reviewed the licensee’s short- and long-term approach to address the security issues and assessed the licensee’s security program and potential generic issues associated with the security issues.

On November 5, 2007, the NRC AIT confirmed that the video was taken by a Peach Bottom security officer on four occasions between March and August 2007. The video depicted 10 inattentive security officers from the same team during both day and night shifts. The AIT confirmed that Peach Bottom security officers were inattentive while on duty and, among its

² A nuclear power plant staging area, also referred to as a “ready room,” is a place where security officers who are 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.

³ An AIT is formed to review the circumstances surrounding more significant operational issues at NRC-licensed facilities. The team inspection includes specialists from NRC headquarters and regional staff.

findings, the AIT determined that Exelon had failed to recognize the potential impact of having security officers spend portions of their 12-hour shifts in the ready room with low physical activity. The AIT also noted that the ready room was not accessible for supervisory oversight because the room was locked and thus did not permit unannounced supervisory checks. Also, the AIT noted that the view into the ready room from the outside was blocked by a file cabinet.

II. REGION I ACTIONS TO ADDRESS PEACH BOTTOM SECURITY CONCERNS

March 2007 Allegations by Former Wackenhut Security Manager

After receiving the March 2007 letter (undated but postmarked March 20, 2007, and received by Region I on March 27, 2007), the NRC Region I staff held an ARB meeting on March 29, 2007, and a second ARB meeting on April 11, 2007, to evaluate the Peach Bottom security related concerns and determine appropriate followup. The first ARB meeting was chaired by the Division of Reactor Projects (DRP) Director and the second was chaired by the DRP Deputy Director. Both meetings were attended by DRP and Division of Reactor Safety (DRS) technical staff, the OAC, the Region I Counsel, and an OI representative. The allegation file for the Peach Bottom security related concerns, RI-2007-A-0040, reflected the DRP staff's determination that, based on a review of previous NRC allegations and OI investigations, the allegation did not pose an immediate safety issue.

Prior to the ARB meeting on March 29, 2007, a Region I DRP engineer was tasked to review the March 2007 letter and the relevant allegation history at Peach Bottom. The DRP engineer documented his review in an e-mail dated March 28, 2007, which identified three previous allegations in 2005 that involved the Peach Bottom security force: (1) overtime and fatigue issues, (2) retaliation against security officers, and (3) security officers sleeping in the BRE towers. The allegation pertaining to retaliation against security officers was made by the former Wackenhut security manager. In the e-mail, the DRP engineer noted that none of the allegations were substantiated. The DRP engineer also noted that the March 2007 security related allegations contained inconsistent information concerning officers sleeping in the BRE towers. The e-mail observed that, on one hand, the letter stated that on numerous occasions security officers outside of the BRE towers had witnessed other officers sleeping inside the BRE towers, yet the allegor also stated that security officers sleeping in the BRE towers were protected from discovery because they would recline in a chair or lie on the floor out of sight. The DRP engineer documented his opinion that both statements by the allegor could not be true.

OIG learned that Region I made no attempt to contact the allegor to clarify the perceived conflicting information as to whether security officers could be observed sleeping in the BRE towers. Rather, the ARB complied with the former security manager's request that NRC not contact him and not inform the licensee or security contractor of the existence of the letter that transmitted his concerns to the NRC. During the second meeting on April 11, 2007, the ARB decided to refer the March security concerns to Exelon for review.

Interview of Former Wackenhut Security Manager

The former Wackenhut security manager told OIG that security officers at Peach Bottom were fearful of reporting concerns to Exelon. As a Wackenhut security manager, he had earlier reported this fear of retaliation in reports he submitted to Wackenhut and Exelon. He stated that he also reported to Exelon that working conditions in the Peach Bottom staging area (ready room) were not conducive to remaining alert. He told OIG that he suggested approaches in his

March 2007 letter for catching officers sleeping on posts, and he made specific reference to the BRE towers and staging area. He explained that while the term “ready room” appeared in news articles concerning the Peach Bottom sleeping officers, both NRC and Exelon knew the ready room was the staging area.

The former Wackenhut security manager said that he forwarded the March 2007 concerns to NRC on behalf of the Peach Bottom security officers because they were afraid of being retaliated against for raising concerns. He said he typed his name on the letter, but he purposely did not sign the letter and he requested that NRC not contact him. Despite this request, he said he was curious if NRC would contact him to verify that he had authored the letter. The security manager stated to OIG that he knew the NRC had the discretion to contact him regardless of his request. He said that if NRC had contacted him, he would have given the agency additional information to substantiate the security concerns. He said, for example, he could have provided names of security officers who would have substantiated that security officers were sleeping on duty.

Interviews of Region I Staff Regarding Referral of March 2007 Allegation

OIG interviewed the Region I staff responsible for reviewing the March 2007 concerns. The DRP engineer tasked to review the March 2007 letter and relevant Peach Bottom allegation history told OIG that prior to the initial ARB he reviewed the history of security related allegations for Peach Bottom. He acknowledged to OIG that he may have been less sensitive to the March 2007 concerns because he was aware the alleged had raised unsubstantiated issues in the past. He also noted that based on his review, past allegations of fatigue at Peach Bottom had not been substantiated. He questioned how many times NRC should review the same unsubstantiated allegations.

A Region I DRP Branch Chief who participated in the ARB told OIG that the staff’s decision to refer the March 2007 allegation to Exelon was made because the allegation did not provide strong evidence of inattentiveness and because previous security related allegations had not been substantiated.

The DRP Director told OIG that he chaired the initial March 2007 ARB meeting, but was not involved in the second ARB meeting during which the staff decided to refer the allegation to the licensee. The second ARB meeting was chaired by the DRP Deputy Director. Nevertheless, the DRP Director recalled that the allegation posed a challenge because the letter lacked specific information concerning the inattentiveness of security officers such as which security officers were inattentive on duty or when the inattentiveness had occurred. He noted that the ARB took into consideration past NRC inspections and investigations that had been conducted into similar concerns which were not substantiated. He said the decision to refer the security concerns to Exelon was influenced by the fact that Region I tends to rely on licensees, which the staff believes are in a better position to determine whether security officers are inattentive on duty. He noted that there have been occasions where licensees have confirmed instances of inattentiveness.

III. REGION I REFERRAL LETTER TO EXELON

Region I referred the March 2007 concerns to Exelon in a letter dated April 30, 2007. The letter conveyed the following three concerns to Exelon for review and evaluation:

- “Security officers at Peach Bottom were sleeping on duty while in the BRE towers and other areas, due to fatigue from excessive overtime and from not being able to adjust to 12 hour shift schedules.
- Security officers were fearful of retaliation from Exelon management if they raised safety concerns.
- Exelon management was aware that the officers are sleeping on duty but was not taking proper actions to address it.”

OIG noted that in its April 30, 2007, letter to Exelon, Region I did not provide the licensee with details of the concerns, for example, that officers were “coordinating amongst” each other or waking up sleeping security officers to respond to radio checks. While the referral letter indicated that security officers were sleeping in the BRE towers and in other areas, it did not convey to Exelon the allegor’s suggestion to monitor the staging area.

Exelon’s Response to Region I Referral

In a letter dated May 30, 2007, Exelon informed Region I that it had concluded a review of the March security related concerns. The letter advised Region I that two independent investigators with 22 years of collective experience in the nuclear industry had evaluated the facts underlying the concerns and did not substantiate these concerns. In a six-page attachment to the letter, Exelon advised NRC that the investigators had conducted a comprehensive evaluation to determine the merits of the three concerns. The evaluation included a review of Exelon programs, procedures, and records pertaining to training, fitness-for-duty issues, and group work hour averages over a 6-week period. The investigators also conducted interviews of five Exelon managers and nine security officers at Peach Bottom. According to the attachment to the May 30 letter, the investigators conducted a broad search of programs to look for information relevant to the concerns. Areas reviewed included Exelon Corrective Action Program issues and actions, Employee Concerns Program investigations, Wackenhut Nuclear Services (WNS) Safe-2-Say Program (a program for reporting concerns) investigations, and WNS Peach Bottom disciplinary records.

Exelon concluded the concerns were not substantiated based, in part, on the following:

- Exelon had measures in place to reduce the potential for security officers becoming inattentive and to monitor inattentiveness, including (1) random radio communication checks with each post, (2) a requirement that each officer stand up and walk around for 2 to 3 minutes approximately every 15 minutes, (3) supervisor visits to each stationary post a minimum of twice per 12-hour shift, and (4) random observations of security officers on post with a focus on BRE towers.
- Interviews with managers and security officers regarding observations of inattentiveness did not confirm any instances of such behavior.
- Reviews of corrective action program reports and other avenues for reporting concerns did not confirm that officers were reluctant to report concerns or that the plant had problems with fatigue.

- A review of security officer work hour averages over a 3-month period reflected that work hours were consistently lower than NRC work limit requirements.

OIG noted that the May 30, 2007, letter from Exelon to Region I did not contain any documents to support its evaluation of the security related concerns.

Interviews of Exelon Investigators

OIG interviewed two Exelon investigators who conducted the review of the March 2007 concerns. The investigators told OIG that they focused their review on the inattentiveness of security officers in the BRE towers because that was the area specifically mentioned in the NRC's referral letter. They said they never visited the ready room to assess conditions in that area. The investigators reviewed licensee work hour records to determine whether hours worked exceeded NRC requirements and, therefore, could lead to fatigue. They also reviewed Exelon Corrective Action Program records to determine whether employees were reporting concerns about fatigue, inattentiveness, or retaliation. The Exelon investigators also interviewed Peach Bottom staff to determine if any had personal knowledge of inattentiveness among the security officers. Based on this review, the investigators concluded that the March 2007 concerns were not substantiated.

In hindsight, one Exelon investigator told OIG that it would have been useful to have more specific information from Region I describing the concerns. Had Region I provided Exelon more details, Exelon might have taken a different approach to reviewing the concerns. He also told OIG that, in the past, Exelon had communicated the need for more detailed allegation information to NRC.

IV. REGION I ACTIONS IN RESPONSE TO EXELON'S EVALUATION OF SECURITY CONCERNS

OIG learned that upon receipt of Exelon's May 2007 response, a Region I DRS security inspector evaluated the response and made a recommendation to close the allegation file to the DRP Branch Chief who had participated in the ARB. The DRS security inspector documented his review in a May 31, 2007, e-mail to the DRP Branch Chief. He noted that Exelon's response highlighted the procedures it had in place, such as normal radio communication checks and random radio communication checks; however, he questioned how these random checks were implemented, including how often, how many officers were checked, and how the checks were documented. The e-mail noted that while Exelon took credit for supervisory post checks, these checks would likely have limited success in catching inattentive officers due to the configuration of the Peach Bottom BRE towers (officers not readily visible). The e-mail also noted that while Exelon had a number of programs in place to help ensure security officer attentiveness, the only feasible method (short of engaging in surveillance activities, which the inspector noted was not practical) for actually catching an inattentive officer would be random radio checks. Despite these questions, the DRS security inspector concluded that Exelon's response was reasonable and of sufficient depth and scope.

On June 4, 2007, the DRP Branch Chief sent an e-mail to the DRS security inspector that stated he too had reviewed the licensee response and agreed it was important to understand how random checks were conducted by the licensee. He recommended that Region I obtain this information by telephoning Peach Bottom security staff. The DRP Branch Chief wanted this information added to the allegation file before the allegation could be closed. Regarding the

supervisory checks of the guard post s, he agreed it was not feasible to use surveillance activities to catch a sleeping security officer.

A memorandum dated August 22, 2007, from the DRP Branch Chief to Region I allegation file RI-2007-A-0040 documented the NRC staff's review of Exelon's response to the Peach Bottom security related concerns and reflected that the allegation was closed as unsubstantiated. The memorandum noted that the DRS security inspector had telephoned Peach Bottom management to obtain additional information on the frequency of random communication checks and was told that random checks were conducted with all on-duty personnel. The inspector was told that in addition to scheduled radio checks, random command calls were made that directed all seated security officers to stand for about 2 minutes. The memorandum stated that the DRP and DRS staff had reviewed Exelon's response and concluded that it was complete, reasonable, and acceptable.

Interviews of Region I Staff Regarding Their Evaluation of Exelon's Response

The DRS security inspector, who reviewed security aspects of the licensee's response, and the DRP engineer, who had reviewed the March 2007 concerns and relevant Peach Bottom allegation history, told OIG that they reviewed Exelon's May 2007 response and believed it was adequate and addressed the alleger's concerns. The DRS security inspector said that Exelon identified a number of programs it had in place to monitor inattentiveness, which he thought were more extensive than at other plants. He recalled that he questioned one aspect of Exelon's response involving the frequency of random radio checks. He stated that after telephoning the licensee for clarification, he learned that random radio checks were conducted periodically and that they included all security officers. He stated he was satisfied with Exelon's response.

The DRP engineer told OIG that, in hindsight, he should have looked for Exelon to interview a larger number of personnel, and he should have inquired if personnel from different security teams had been interviewed by Exelon. For example, at the time he reviewed the licensee's response, he was unaware that no security officers were interviewed from the team with the allegedly inattentive officers. Even so, he said he was uncertain whether conducting additional interviews would have made a difference. He explained that even when security officers from this team were later interviewed by the NRC AIT, they denied knowledge of inattentive officers.

The DRP engineer said it was his understanding that the random observations of the BRE towers could not be accomplished without alerting the security officer on duty. Consequently, his interpretation of these random observations was that a supervisor visited the security officers in the towers at random times in addition to the regular post checks; however, he never contacted the licensee to ascertain if his interpretation was correct.

Similarly, the DRS security inspector said he assumed that Exelon was conducting additional post checks on a random basis rather than conducting random observations. He agreed that Exelon's response never explained what was meant by random observations and that he had no way of knowing if they were referring to visual observations or random post checks. Nevertheless, he never questioned Exelon's ability to conduct random observations of the BRE towers because he felt that regardless of how they were conducted, these observations amounted to extra management oversight beyond other reliable measures the licensee had in place. He said he knew that random observations of the BRE towers were not feasible, and the likelihood that they would actually identify inattentive security officers was very small. Therefore, he did not see it as an important or useful technique. He concluded that the

licensee's response was adequate because Exelon had "all the right tools in place," which included the requirement that security officers be periodically active for 2 to 3 minutes, random radio checks, and two-per-shift supervisory checks.

The DRS security inspector said that NRC lacks the resources to routinely conduct inspections to verify information provided by licensees in response to allegations. According to the inspector, the licensee is in the best position to address and verify whether security officers are inattentive while on duty. He did not question the validity of the programs that Exelon said it had in place to monitor inattentiveness. He said that the effectiveness of, or documentation for, these programs could not be confirmed unless NRC conducted an inspection but that NRC lacked resources for such efforts.

The DRP Branch Chief told OIG that he reviewed Exelon's response and found that it contained the appropriate amount of rigor, depth, and analysis to support its conclusions. According to the DRP Branch Chief, Exelon had reviewed the appropriate areas and provided NRC with the necessary data. The DRP Branch Chief noted that Exelon identified all of its procedures, processes, and controls, including the supervisory checks that were in place. He concluded that Exelon had a sound program and noted that the DRS security inspector had advised him that Exelon's security program was reasonable. The DRP Branch Chief added that NRC does not typically probe a licensee's information if the staff does not perceive a reason to question the data. He commented that he personally does not question the licensee's integrity unless he has a reason to do so. In this instance, the staff did not have reason to request the licensee to conduct further work. He said he reviewed Exelon's procedures and knew that these procedures had worked successfully at other sites, including an Exelon site where he had been a resident inspector.

The DRP Branch Chief said that he and the Region I staff who reviewed the allegation were aware that, given the configuration of the BRE towers, there were limitations on the licensee's ability to "sneak up" on the security officers to see if they were sleeping. He stated that given these limitations, it was not possible to catch inattentive security officers on post without knocking on the door and waking them up. He said he assumed that the random observations, for which the licensee took credit, meant that the licensee was conducting post checks on a random basis. He acknowledged that although the licensee had a number of programs in place to catch inattentiveness, the only feasible program was the random radio communication checks.

The DRP Director told OIG that although he did not review the licensee's response to the March 2007 security concerns prior to the allegation's closure, he has done so since. The DRP Director said that Exelon's response was adequate and thorough based on the information available at the time. He said that subsequent to the work of the NRC AIT, some NRC staff members have questioned the number of personnel interviewed by the licensee; however, he had not reached a conclusion as to whether the number of personnel interviewed constituted an adequate sample. He told OIG that the staff made a judgment that the licensee's response was thorough and complete. Although he believed that Region I staff's judgment regarding the adequacy of the Exelon response appeared reasonable, he acknowledged in hindsight that the staff could have done more to probe the licensee's response.

The DRP Director told OIG that because NRC cannot review every licensee activity, NRC's regulatory oversight is predicated on the licensee taking the necessary steps to address problems. He said it is up to licensees to use their processes to identify and resolve problems. He also noted that NRC can influence how licensees resolve problems through its inspections.

For example, he said, by looking at a licensee's corrective action program, the NRC can develop a level of confidence that if a licensee identifies an issue, it will address the issue effectively. While he acknowledged in hindsight that Exelon's response could have been more thorough and Region I staff could have explored Exelon's response more closely, he did not believe that the outcome would have been different had either of these actions occurred. He noted that when interviewed by AIT members, Peach Bottom security officers continued to deny knowledge of inattentive officers.

FINDINGS

1. OIG determined that Region I was inconsistent in its assessment of the safety significance of two allegations, made within 6 months of each other, conveying similar concerns about inattentive security officers at Peach Bottom.

In late March 2007, the Region I NRC resident inspector assigned to Peach Bottom received a letter from a former Wackenhut security manager who alleged that security officers at Peach Bottom came to work exhausted, were inattentive on duty, and covered for each other so they could nap during shifts. On March 27, 2007, Region I staff received the letter and assigned an allegation number to the security concerns. On March 29, 2007, Region I responded to this allegation by convening an ARB meeting. During the meeting, the ARB determined that the allegation did not pose an immediate safety issue. The ARB's decision was based on a review of previous, similar security related allegations that had not been substantiated. The ARB also decided to repanel 2 weeks later to determine NRC's next steps. During the second ARB, on April 11, 2007, ARB participants again determined that the March security concerns did not pose an immediate safety issue and decided to refer the concerns to Exelon, the license holder for Peach Bottom. The concerns were referred by Region I to Exelon by an April 30, 2007, letter.

On September 10, 2007, Region I received a second allegation about inattentive security officers at Peach Bottom. On that date, the region's Public Affairs Officer received a telephone call from a WCBS television reporter who claimed to possess a videotape depicting inattentive security officers on duty at the plant. Based on this telephone call, Region I promptly convened an ARB on the same day, and the ARB decided that the allegation posed a potential significant safety issue. The ARB also decided that because the reporter did not provide any specifics, the NRC staff should contact the reporter the same day to obtain additional details. The Region I staff contacted the reporter who would not provide any additional details but reiterated that security officers were inattentive at Peach Bottom and that the reporter had a video which showed the Peach Bottom inattentive officers. A second ARB meeting was convened on September 10, 2007, and the ARB was informed that the reporter would not provide further details of the Peach Bottom officers' inattentiveness. Shortly thereafter, resident inspectors assigned to Peach Bottom began increased monitoring of security officer activities, including night shift inspections of security officers for inattentiveness. On September 20, 2007, Region I staff reviewed the video and also convened an AIT.

2. OIG determined that MD 8.8 encourages the NRC staff to refer "as many allegations as possible" to licensees and establishes criteria for doing so. However, in referring the Peach Bottom security concerns to Exelon, Region I staff did not follow MD 8.8's direction that allegations against licensee management should not be referred. Two of the three concerns – officers feared retaliation from Exelon management for raising safety concerns and Exelon management was aware that officers were inattentive on duty but was not taking proper actions to address the inattentiveness – fall into this category.

In addition to the above, the referral of the allegation by Region I to Exelon was not consistent with MD 8.8 guidance for referral in the following areas:

- *Has the allegor raised objections to releasing the allegation to the licensee?* The former Wackenhut security manager requested anonymity regarding the March 2007 letter and that NRC not inform Exelon of the letter's existence.
 - *Are resources available within the region or program office to conduct an investigation or inspection?* On the date of the referral letter to Exelon, April 30, 2007, Region I began a baseline security inspection that continued through May 4, 2007. However, this inspection did not include the concerns in the March 2007 letter.
 - *What is the licensee's past performance in dealing with allegations, including the likelihood that the licensee will effectively investigate, document, and resolve the allegation?* The March 2007 letter stated the licensee was aware of inattentive officers at Peach Bottom but past efforts to address the inattentiveness had failed.
3. OIG determined that other than making a telephone call to clarify the frequency of random communication checks and the number of officers involved in such checks, Region I did not probe or attempt to verify the information provided by Exelon in its May 30, 2007, assessment report.
- Region I staff did not question how random observations of BRE towers were conducted or documented even though the staff believed that random observations of the BRE towers were generally not possible because of the BRE tower configuration. Region I staff did not question this information even though they believed that supervisory post checks, the licensee's other means of observing officers on post, would have limited success for catching inattentive security officers given that officers would always have advance notice and could prepare themselves accordingly.
 - Region I staff did not inquire into the licensee's sampling of security officers and managers interviewed in an effort to determine their knowledge of inattentive security officers on duty. None of the security officers from the team that included the inattentive officers on the video were interviewed and no Wackenhut security managers were interviewed.
 - Region I staff did not question the viability or enforceability of Exelon's program requirement for security officers to get up, walk around, and be active for 2-3 minutes approximately every 15 minutes.
4. OIG also determined that, in conjunction with referring the March 2007 concerns to Exelon for evaluation, Region I could have taken the following steps:
- Contacted the former Wackenhut security manager to obtain additional information because the Region I staff believed the allegor's letter lacked specificity.
 - Provided more detailed information to Exelon pertaining to the March 2007 security concerns. Specifically, in its April 30, 2007, letter to Exelon, Region I could have informed Exelon that security officers were coordinating with each

other or waking each other up to respond to radio checks. They also could have conveyed the alleged's suggestion to monitor the plant personnel staging areas.

- Provided the March 2007 concerns to the NRC resident inspectors assigned to Peach Bottom for increased monitoring of security officer activities.
- Tasked the Region I security inspectors to look into the matter during a baseline security inspection conducted at Peach Bottom from April 30 to May 4, 2007.