

Dated at Rockville, Maryland, this 14th day of April 2008.

For The Nuclear Regulatory Commission.

Catherine Haney,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[EA-07-256]

In the Matter of Wackenhut Nuclear Services, a Division of the Wackenhut Corporation; Confirmatory Order (Effective Immediately)

I

Wackenhut Nuclear Services (WNS), a division of The Wackenhut Corporation, provides security related services to the Turkey Point Nuclear Plant (Turkey Point), operated by Florida Power & Light Company (FPL or Licensee). FPL holds License No. DPR-31 and DPR-41, issued by the Nuclear Regulatory Commission (NRC or Commission) on July 19, 1972, and April 10, 1973, respectively, pursuant to 10 CFR Part 50. The license authorizes the operation of Turkey Point, Units 3 and 4, in accordance with the conditions specified therein. Turkey Point is located on the Licensee's site in Florida City, Florida.

II

On December 13, 2006, the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) completed an investigation of security-related matters at FPL's Turkey Point Nuclear Plant. The purpose of the investigation was to determine if security officers employed with WNS at Turkey Point were willfully inattentive to duty during 2004-2006. The results of the OI investigation were documented in a letter to WNS dated October 30, 2007, which identified apparent violations involving the activities of WNS employees. The apparent violations involved WNS security officers who were willfully inattentive to duty or served as lookouts such that other security officers could be inattentive while on duty. These actions caused Wackenhut to be in violation of 10 CFR 50.5, and caused the facility (Turkey Point) to be in violation of 10 CFR 73.55(f)(1), because these officers were unable to maintain continuous communication with an individual in each continuously manned alarm station.

III

The results of the NRC's preliminary conclusions, as discussed in Section II, were provided to WNS by NRC letter dated October 30, 2007. The NRC's letter informed WNS that the NRC was considering the apparent violations for escalated enforcement action in accordance with the NRC Enforcement Policy, and offered WNS a choice to: (1) Attend a Pre-decisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement on whether violations occurred, the appropriate enforcement action, and the appropriate corrective actions. In response, WNS requested ADR to resolve the matter. WNS and the NRC participated in an ADR session in Atlanta, Georgia, on January 22, 2008. As a result of the ADR session, WNS and the NRC reached an Agreement in Principle, which consisted of the following elements:

1. The NRC and WNS agreed that during 2004-2006, several security officers employed by Wackenhut Corporation engaged in deliberate misconduct in violation of WNS' policies and procedures and which caused Florida Power and Light Company's Turkey Point Nuclear Plant to be in violation of 10 CFR 73.55(f)(1). Specifically, the security officers were deliberately inattentive to duty or served as lookouts such that other security officers would be allowed to be inattentive while on duty. These actions caused FPL to be in violation of 10 CFR 73.55(f)(1), because these officers were, while inattentive, unable to maintain continuous communication with an individual in each continuously manned alarm station.

2. The NRC and WNS were in complete agreement that deliberately inattentive security officers is an egregious matter that cannot be tolerated in the nuclear industry.

3. The NRC acknowledged that, to its knowledge, during the time the security officers engaged in deliberate misconduct, there was no actual need for a security response by the WNS security force staff to a security-related threat at Turkey Point. In addition, the facility retained its ability to implement its protective strategy because of the redundancy required by NRC security regulations.

4. The parties incorporated by reference the security enhancements as documented in the NRC's Confirmatory Order of January 22, 2008.

5. In addition to the above, WNS has completed or agreed to complete the

following activities in response to the events as discussed in Item 2 above:

(1) Safety Conscious Work Environment (SCWE) activities:

- a. Issuance of a new SCWE Policy on February 5, 2007.
- b. Issuance of a new SCWE Handbook in February 2007.
- c. Training of all on-site WNS supervisory personnel on the above SCWE Policy and Handbook initially completed in February 2007, and to be proceduralized and conducted annually (Training Module).

(2) Continuous Behavioral Observation Program (CBOP):

- a. Implement a Management and Supervisor Oversight procedure to include CBOP evaluations of on-shift security force members' fitness for duty (FFD).

- b. CBOP training of officers regarding behavior identifiers and actions to be taken in response to aberrant issues.

- c. CBOP training of supervisors and officers to include communication of expectations to self-declare potential FFD issues.

- d. To ensure officers are fit-for-duty at the beginning of each shift, WNS has also enhanced its FFD processes to include FFD questioning of officers prior to each shift. In addition, WNS will reinforce its expectations that officers may declare potential FFD issues at any time.

(3) Training and development activities:

- a. Continued implementation of Supervisory Requirements and Expectations at FPL's Turkey Point facility, as discussed in WNS' memo of 10/24/06, and for other facilities supported by WNS as described in WNS' objective and One-on-One procedure.

- b. Implementation of Attentiveness Refresher Training in November 2006, and continued training on an annual frequency.

- c. Professional development training for newly hired security officers at sites currently serviced by WNS. Periodic professional development training will be performed at sites supported by any WNS's successor organization.

- d. Feedback mechanism to determine effectiveness of training (Ideal Facility Performance Metrics).

(4) Process and Program Improvements:

- a. Analysis of post rotation frequency and radio check frequency and enhancements made as appropriate.

- b. Performance of pre-hire security officer profile testing and third party evaluation.

- c. Implementation of Work Hour controls with consideration of the NRC's Work Hours Requirement.

6. The NRC and WNS agreed to communications on the above activities at the same frequency as discussed in the NRC's Confirmatory Order of January 22, 2008.

7. In consideration of the above commitments, the NRC agreed to forego issuance of a Notice of Violation or other enforcement action in this matter.

8. The NRC and WNS agree that the above elements will be incorporated into issuance of a Confirmatory Order.

9. This agreement is binding upon successors and assigns of WNS.

IV

Because WNS has agreed to take actions to address the NRC's concerns, as set forth in Section II above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that WNS' commitments set forth in Section V below are acceptable and necessary, and I conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that WNS' commitments be confirmed by this Order. Based on the above and WNS' consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 104, 161b, 161i, 161o, and 186 of the Atomic Energy Act of 1954, as amended, the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *it is hereby ordered, effective immediately, that:*

WNS has completed or agrees to complete the following activities in response to the events as discussed in Item II above:

1. Safety Conscious Work Environment (SCWE) activities:

a. Issuance of a new SCWE Policy (issued on February 5, 2007).

b. Issuance of a new SCWE Handbook (issued in February 2007).

c. Training of all on-site WNS supervisory personnel on the above SCWE Policy and Handbook initially completed in February 2007, and to be proceduralized and conducted annually (Training Module).

2. Continuous Behavioral Observation Program (CBOP):

a. Implement a Management and Supervisor Oversight procedure to include CBOP evaluations of on-shift security force members' fitness for duty (FFD).

b. CBOP training of officers regarding behavior adverse to the safety and security of the facility, and actions to be taken in response to adverse conditions.

c. CBOP training of supervisors and officers to include communication of

requirements to self-declare potential FFD issues.

d. To ensure officers are fit-for-duty at the beginning of each shift, WNS has also enhanced its FFD processes to include FFD questioning of officers prior to each shift. In addition, WNS will reinforce its expectations that officers should declare potential FFD issues at any time the need arises.

3. Training and development activities:

a. Continued implementation of Supervisory Requirements and Expectations at FPL's Turkey Point facility, as discussed in WNS' memo of 10/24/06, and for other facilities supported by WNS as described in WNS' objective and One-on-One procedure.

b. Implementation of Attentiveness Refresher Training in November 2006, and continued training on an annual frequency.

c. Professional development training for newly hired security officers at sites currently serviced by WNS. Periodic professional development training will be performed at sites supported by any WNS successor organization.

d. Feedback mechanism to determine effectiveness of training (Ideal Facility Performance Metrics).

4. Process and Program Improvements:

a. Analysis of post rotation frequency and radio check frequency and enhancements made as appropriate.

b. Performance of pre-hire security officer profile testing and third party evaluation

c. Implementation of Work Hour controls with consideration of the NRC's Work Hours Requirement.

5. WNS agrees to communications on the above activities at the same frequency as discussed in the NRC's Confirmatory Order of January 22, 2008.

6. This agreement is binding upon successors and assigns of WNS.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by WNS of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than WNS, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the

Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555-0001. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address; to the Regional Administrator, NRC Region II, 61 Forsyth Street, SW., Suite 23T85, Atlanta, GA 30303-8931; and to WNS. Because of the possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than WNS requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

For the Nuclear Regulatory Commission.

Dated this 9th day of April 2008.

Victor M. McCree,

Acting Regional Administrator.

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