

**POLICY ISSUE**  
**NOTATION VOTE**

**RESPONSE SHEET**

**TO:** Annette Vietti-Cook, Secretary

**FROM:** Commissioner Baran

**SUBJECT:** SECY-19-0046: Options for a Long-term Alternative to the Nuclear Energy Institute Composite Adversary Force.

Approved ☐ Disapproved ☒ Abstain ☐ Not Participating ☐

**COMMENTS:** Below ☐ Attached ☒ None ☐

**Entered in "STARS"**

Yes ☒

No ☐

  
**SIGNATURE**

10/1/19  
**DATE**

## **Commissioner Baran's Comments on SECY-19-0046, "Options for a Long-term Alternative to the Nuclear Energy Institute Composite Adversary Force"**

Beginning in 2004, each nuclear power plant in the country used the Composite Adversary Force (CAF) managed by the Nuclear Energy Institute (NEI) to provide a mock attack force for NRC's force-on-force physical security exercises. NextEra and Entergy ended their memberships with NEI in early 2018 and are no longer using the NEI-managed CAF. Instead, NextEra and Entergy established a separate Joint Composite Adversary Force (JCAF) comprised of staff from the two utilities' nuclear reactor fleets for use during force-on-force exercises at their plants.

In this paper, the NRC staff provides three options for a long-term alternative to a nation-wide CAF managed under an NEI contract. The options are: (1) one or more industry-managed contractor mock adversary forces; (2) a single nation-wide mock adversary force provided by a private contractor managed by NRC; or (3) a single nation-wide mock adversary force provided by the West Virginia National Guard Critical Infrastructure Protection Battalion under an agreement with NRC.

To be clear, the first option is not a continuation of the status quo. It opens the door to a proliferation of industry-run mock adversary forces. In fact, the NRC staff explicitly contemplates licensees creating their own company-specific mock adversary forces. This is not the right way to conduct force-on-force inspections. An adversary force for a plant comprised entirely of the plant owner's employees presents a clear conflict of interest. It is hard to see how this approach would meet the requirements of Section 170D of the Atomic Energy Act, which requires NRC to conduct force-on-force exercises and to "mitigate any potential conflict of interest that could influence the results."

Fundamentally, force-on-force exercises are NRC inspections, and it makes sense for NRC inspectors or entities working for NRC to be performing them. Although the CAF has generally performed well over the years, it was always odd to have an industry contractor executing a key aspect of an NRC physical security inspection. The nation-wide CAF at least drew members from many utilities across the country and did not allow a CAF member to participate in a force-on-force exercise at his or her home plant. If NRC permits an expanding number of mock adversary forces, those attributes that helped mitigate conflicts of interest would fade away.

As a result, NRC needs to move in a different direction, one that avoids obvious conflicts of interest and recognizes that force-on-force exercises are NRC inspections. A single nation-wide mock adversary force provided by an NRC private contractor would be a reasonable approach. But it could pose its own conflict-of-interest challenges if the private contractor hired by NRC was also employed by one or more licensees to provide security services at nuclear power plants. Concerns of this sort were raised in 2004 when NEI contracted with Wackenhut to provide a CAF "because the same company would be providing both the adversaries and the defending security forces at many sites."<sup>1</sup> Those concerns contributed to Congress enacting Section 170D, with its focus on mitigating conflicts of interest, as part of the Energy Policy Act of 2005.

The West Virginia National Guard Critical Infrastructure Protection Battalion is widely recognized as an expert in vulnerability assessments for critical infrastructure across the United

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<sup>1</sup> SECY-19-0046, Enclosure 1 at 1.

States. The battalion is interested in performing this service for NRC and could provide a well-trained mock adversary force at lower cost than either an industry-managed force or an NRC private contractor. Moreover, tapping a National Guard unit would avoid any actual or perceived conflicts of interest. This approach would provide a completely objective adversary force focused exclusively on the national interest. The agreement between NRC and the West Virginia National Guard would ensure the continued availability of the mock adversary force in the event that the unit is mobilized.

For these reasons, I approve entering into an agreement with the West Virginia National Guard Critical Infrastructure Protection Battalion to provide a single mock adversary force for force-on-force exercises at every operating nuclear power plant in the country (Option 3).