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Cybersecurity: Managing Supply Chain Risks and Contracts

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Roadmap

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- Cyber Threat Landscape
- Cybersecurity Legal Framework
- Cybersecurity Preparedness Measures
- Supply Chain Contracting Issues and Suggestions

Cyber Threats to the Energy Sector

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2018

- DHS/FBI report on Russian cyber attacks on energy and other companies
- Cyber attack on Energy Transfer Partners electronic data interchange

2017

- Cyber attacks on Wolf Creek Nuclear and other energy companies
- Compromise of Schneider Electric safety system

2016

- Crash Override attack on Ukraine power grid
- Ransomware attack on midwest utility company

2015 Cyber attack on Ukraine power grid

2014 Black Energy, Havex and Sandworm malware attacks on energy ICS

2013

- Iranian cyber attacks on NY dam and ONG control systems
- PRC cyber espionage targets 23 natural gas pipeline companies

2012 Destructive malware attacks on Saudi Aramco and Qatar RasGas

Cyber Threats

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Threat Actors

Cyber Attacks

- Unauthorized Access
- Theft of Data
- Destruction of Data
- Misappropriation or Misuse
- Unauthorized Disclosure, Disposal, Transmission
- Unauthorized Encryption of Data for Ransom
- Denial of Service
- Integrity Loss (Unauthorized Changes)
- Privilege/Access Escalation
- Impersonation

What's at risk?

- Energy Delivery
- Energy Infrastructure
- Sensitive Company Information
- Customer Service
- Personal Information

US Cybersecurity Regulatory Landscape

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Federal Law

- PHMSA & MTSA
- CFATS
- NERC CIP
- HIPAA/HITECH
- FTC & GLB Acts
- SEC Reporting
- ECPA/CFAA
- SOX
- CISA

State Requirements

- MA, NV, CA and progeny
- Breach notification laws
- Mini-FTC Acts
- Disposal Laws
- Surveillance Laws

Industry Standards

- PCI DSS
- ISO
- NIST
- COBIT
- ISA/IEC

Cybersecurity Preparedness Measures

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- Establish the appropriate governance structure
- Ensure written information security policies are state-of-the-art
- Identify and classify sensitive data
- Maintain incident response plan
- Prepare Incident Response Team though tabletop exercises
- Prepare data breach toolkit
- Improve access to cyber threat information
- Continually assess status of technical and physical protections
- Manage vendor risks
- Manage employee risks
- Train employees and increase awareness
- Assess cyber insurance, SAFETY Act

Cyber Incident Response Timeline

Supply Chain Security

Key Contractual Considerations

Key Contractual Considerations

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- **Security Obligations**
  - External Compliance
    - Compliance with law
    - Compliance with applicable industry standards
    - Compliance with Customer's security requirements
  - Internal Compliance
    - Compliance with vendor's information security program
  - Notification of security events and vulnerabilities
  - Remediation of security events and vulnerabilities

Key Contractual Considerations

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- **Audit Rights and Reporting**
  - Inspection rights
  - Third-party audits and certifications
    - SOC reports
    - ISO certifications

- **Risk Allocation**
  - Indemnification and Liability Limitations
    - Strict liability vs. breach of agreement
    - Don’t forget about negligence of vendor as well!

Key Contractual Considerations

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- **Termination Rights**
  - Material breach vs. specific right
- **Insurance**
  - Type of insurance?
  - Who provides insurance?
- **Subcontractors**
  - Approval rights?
  - Flow down provisions?

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- Advises energy, transportation, communications and other critical infrastructure companies on risk management, incident response, investigations, litigation, regulations and legislation
- Served as Senior Counselor for Cybersecurity and Technology to the Director of the FBI

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Questions?