

August 28, 2001

EA-01-141

Mr. Ronald J. DeGregorio  
Vice President, Oyster Creek  
AmerGen Energy Company, LLC  
P.O. Box 388  
Forked River, New Jersey 08731

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A WHITE FINDING  
(NRC Integrated Report 50-219/01-011)

Dear Mr. DeGregorio:

The purpose of this letter is to provide you with the final results of our significance determination of the preliminary White finding identified in the subject inspection report sent to you on June 22, 2001. The inspection finding was assessed using the significance determination process and was preliminarily characterized as White (i.e., an issue with low to moderate increased importance to safety, which may require additional NRC inspections). This finding involved a vulnerable protective strategy that resulted in the loss of a target set. The vulnerability in the protective strategy was considered to be potentially predictable and repeatable (i.e., the vulnerability could be exploited by an informed adversary, and result in possible loss of the target set) and, as such, was preliminarily characterized as White.

At your request, a regulatory conference was held on August 3, 2001. The conference was closed to the public because of the necessity to discuss sensitive information that must be protected against unauthorized disclosure in accordance with 10 CFR 73.21. During the meeting, your staff indicated that artificialities existed during the exercise that would not occur during an actual intrusion. You contended that if those artificialities did not exist, the response force would have interdicted the mock adversary force preventing the loss of the complete target set. You also indicated that you had subsequently verified by time line analysis and eight actual exercises, that without the artificialities, your response strategy would have been effective. The slides that you used during the regulatory conference to support your contention have been entered in the NRC's document system (ADAMS) and are accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> under Accession Number ML012390291.

The NRC considered the information developed during the inspection, as well as the information that you provided at the conference. After careful consideration, the NRC does not believe that the information that you presented was sufficient to cause a change to the NRC's preliminary assessment. Accordingly, the NRC concluded that your response strategy is deficient in that one target is undefended, and, as predicted during table-top drills prior to the exercise, the remaining target area in that target set was vulnerable. The drill artificialities you cited as adversely affecting the outcome of the exercise were fully evaluated in our decision making process. The artificialities were not a sufficient basis for us to change our initial assessment. Your response strategy remains deficient for the reasons specified above and,

absent the artificialities, simple adversary strategy changes would have likely resulted in the same outcome. Furthermore, drill artificialities are largely within your control and are not normally a basis for voiding the results of the exercise. Accordingly, the NRC has concluded that the inspection finding is appropriately characterized as White. The bases for this conclusion is that the finding is related to a protective strategy deficiency that resulted in the loss of a single target set and that the vulnerability is considered potentially predictable and occasionally repeatable.

You have 10 business days from the date of this letter to appeal the staff's determination of significance for the identified White finding. Such appeals will be considered to have merit only if they meet the criteria given in NRC IMC 0609, Attachment 2.

Because plant performance for this issue has been determined to be in the regulatory response band, we will use the NRC Action Matrix associated with the NRC's Assessment Process (IMC 0305) to determine the most appropriate NRC response to this event. We will notify you by separate correspondence of that determination, including any adjustments to the NRC inspection plan.

You are not required to respond to this letter. In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Sincerely,

***/RA/ James T. Wiggins Acting For***

Hubert J. Miller  
Regional Administrator

Docket No. 50-219  
License No. DPR-16

cc:

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\* per e-mail from J. Dixon-Herrity

\*\* Per e-mail from T. Reis, 8/23/01