



UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**  
REGION II  
SAM NUNN ATLANTA FEDERAL CENTER  
61 FORSYTH STREET SW SUITE 23T85  
ATLANTA, GEORGIA 30303-8931

**SAFEGUARDS INFORMATION**

March 13, 2002

EA-01-141

**Safeguards Information removed**

MEMORANDUM TO: Hubert J. Miller  
Regional Administrator  
Region I

FROM: Oyster Creek OSRE SDP Appeal Panel

Kenneth P. Barr, Chief  
Plant Support Branch, DRS  
Region II  
Panel Chairman

James L. Belanger  
Senior Physical Security Inspector, DRS  
Region III

David J. Nelson  
Senior Enforcement Specialist, Reactors  
Office of Enforcement

SUBJECT: OYSTER CREEK OPERATIONAL SAFEGUARDS RESPONSE  
EVALUATION (OSRE) SIGNIFICANCE DETERMINATION APPEAL

The Appeal Panel you established to review the OSRE significance determination process by your September 19, 2001 memorandum, has completed its analysis. Enclosed are the analyses and conclusions of the Panel. The Panel initially conducted its review in accordance with the requirements of your charter which established Inspection Manual Chapter (IMC) 0609, "SDP," Attachment 2, "Process for Appealing NRC Characterization of Inspection Findings" as the basic guidance document for our review. Specifically, the Panel reviewed the following documents available on the docket or otherwise available to the public:

IMC 0609, Appendix E, Interim Physical Protection Significance Determination Process (SDP)

NRC Inspection Report 05000219/2001-011, dated June 22, 2001

Submittal by Oyster Creek, dated May 18, 2001

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Hubert J. Miller

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Oyster Creek presentation materials at the Regulatory Conference of August 3, 2001

Final Significance Determination Letter, dated August 28, 2001

Submittal by Oyster Creek, Appeal of Final Significance Determination, dated September 12, 2001

IMC 0609 identifies that the review of a licensee appeal will be limited to docketed correspondence. As a result of our initial review of the docketed information, the Panel concluded that there was insufficient basis provided in the docket material to conclude that a WHITE finding was appropriate.

Subsequent to our initial review, substantial discussion occurred between NRR management, Region I management and the Panel on the sufficiency of that review based on docketed information only. Information needed to provide a sufficient basis for the WHITE finding was not on the docket. Consequently, the Panel was instructed to consider information that was not docketed information. Specifically, the Panel reviewed a Region I safeguards position paper (developed to support the Region's rationale for a WHITE finding after the Panel's original conclusion that a WHITE finding was not substantiated), documents in the Office of Enforcement case file, and plant specific information provided by members of the inspection team. Additionally, as permitted by the panel charter, telephonic interviews of NRC staff were conducted for the purpose of obtaining factual background information.

After a review of information that was docketed and not docketed, and especially that factual information that was obtained through interviews with the NRC OSRE participants, the Panel concluded that a WHITE significance determination was appropriate. Accordingly, the Panel recommends that more detailed justification of the basis for the WHITE significance determination be documented to the licensee.

Enclosure: Appeal Panel Evaluation  
(contains Safeguards Information)

cc w/encl:  
Director, OE  
Regional Administrator, Region II  
Regional Administrator, Region III  
Regional Administrator, Region IV  
Deputy Regional Administrator, Region I  
Director, Division of Inspection Program  
Management, NRR  
Chief, Inspection Program Branch, NRR  
Chief, Reactor Safeguards, Radiation Safety,  
and Emergency Preparedness Branch, NRR

**~~SAFEGUARDS INFORMATION~~**