



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, IL 60532-4352

May 7, 2012

EA-12-074

Mr. Eric Larson
Acting Site Vice President
FirstEnergy Nuclear Operating Company
Perry Nuclear Power Plant
P. O. Box 97, 10 Center Road, A-PY-A290
Perry, OH 44081-0097

**SUBJECT: PERRY NUCLEAR POWER PLANT
NRC SPECIAL INSPECTION REPORT 05000440/2012405(DRS)
PRELIMINARY GREATER THAN GREEN FINDING**

Dear Mr. Larson:

On March 28, 2012, the U.S. Nuclear Regulatory Commission (NRC) completed a Special Inspection at your Perry Nuclear Power Plant. The inspection was conducted to evaluate the circumstances surrounding Event Notification 47621, which stated, in part, that security personnel discovered that the analysis of the safeguards system failed to identify a potential vulnerability in a safeguards system that could have allowed unauthorized or undetected access to the Protected Area for which sufficient compensatory measures had not been employed prior to discovery. Based on the risk and deterministic criteria specified in Management Directive 8.3, "NRC Incident Investigation Program," a special inspection was initiated in accordance with Inspection Procedure 93812, "Special Inspection." The Special Inspection Charter (Attachment 2 of the Enclosure) provides the basis and focus areas for the inspection.

The enclosed inspection report documents the inspection results, which were discussed with you and other members of your staff at the exit teleconference on March 28, 2012. The determination that the special inspection would be conducted was made on February 8, 2012, and the on-site inspection commenced on February 13, 2012.

The inspection examined activities conducted under your license as they relate to security and compliance with the Commission's rules and regulations and with the conditions of your license. The inspector reviewed selected procedures and records, observed activities, and interviewed personnel.

Enclosure contains Sensitive Unclassified Non-Safeguards Information. When separated from enclosure, this transmittal document is decontrolled.

E. Larson

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This report documents findings that have the potential for significance of greater than very low security significance (i.e., greater than Green as determined by the Physical Protection Significance Determination Process (SDP)). The final resolution of these findings will convey the increment in the importance to safety by assigning the corresponding color. The deficiencies were corrected or compensated for, and the plant was in compliance with applicable physical protection and security requirements within the scope of this inspection before the inspector left the site.

The findings are also apparent violations (AV) of NRC requirements and are being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy can be found at the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement>.

In accordance with Inspection Manual Chapter (IMC) 0609, Significance Determination Process, we intend to complete our evaluation using the best available information and issue our final determination of security significance within 90 days of the date of this letter.

The SDP encourages an open dialogue between the NRC staff and the licensee; however, the dialogue should not impact the timeliness of the staff's final determination. Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) present to the NRC your perspectives on the facts and assumptions used by the NRC to arrive at the finding and its significance at a Regulatory Conference, or (2) submit your position on the finding to the NRC in writing. If you decline to request a Regulatory Conference or submit a written response, your ability to appeal the final SDP determination can be affected, in that by not doing either, you fail to meet the appeal requirements stated in the Prerequisite and Limitation Sections of Attachment 2 of IMC 0609.

If you request a Regulatory Conference, it should be held within 30 days of the receipt of this letter and we encourage you to submit supporting documentation at least one week prior to the conference in an effort to make the conference more efficient and effective. In the interest of protecting sensitive, security-related information, if a Regulatory Conference is held, it will not be open for public observation. If you decide to submit only a written response, such submittals should be sent to the NRC within 30 days of the receipt of this letter. Because this issue involves security-related information, if you choose to respond, your response will not be made available electronically for public inspection in the NRC Public Document Room or the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If Safeguards Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.22. Otherwise, mark your entire response "Security-Related Information – Withhold Under 10 CFR 2.390" and follow the instructions for withholding in 10 CFR 2.390(b)(1).

Please contact Richard Skokowski, Chief, Plant Support Branch at 630-829-9757 and within 10 days of the date of this letter to notify the NRC of your intended response. If we have not heard from you within 10 days, we will continue with our significance determination and enforcement decision and you will be advised by separate correspondence of the results of our deliberations on this matter.

E. Larson

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Since the NRC has not made a final determination in this matter, no Notices of Violation are being issued for these inspection findings at this time. In addition, please be advised that the number and characterizations of the AVs described in the enclosed inspection report may change as a result of further NRC review.

In accordance with 10 CFR 2.390 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 System (PARS) component of NRC's document system, ADAMS. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). However, because of the security-related concerns contained in the enclosure, and in accordance with 10 CFR 2.390, a copy of this letter's enclosure will not be available for public inspection.

In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response, if any. This practice will ensure that your response will not be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system, ADAMS. If Safeguards Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21. Otherwise, mark your entire response "Security-Related Information-Withhold Under 10 CFR 2.390" and follow the instructions for withholding in 10 CFR 2.390(b)(1).

Sincerely,

/RA By Kenneth O'Brien Acting For/

Steven A. Reynolds, Director
Division of Reactor Safety

Docket No. 50-440
License No. NPF-58

Nonpublic Enclosure: Inspection Report 05000440/2012405(DRS)
w/Attachments:

1. Supplemental Information
2. Special Inspection Charter
3. IMC 0609 Appendix E – Part I, Fig. 4 - "Significance Screen Process"

cc w/encl: S. Coker, NSIR/DSO/DDSO/ST
R. Albert, NSIR
C. Johnson, NSIR
D. Furst, OE
J. Trapp, RI
B. Desai, RII
M. Hay, RIV
M. Bear, Radiological Branch
Ohio Emergency Management Agency

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E. Larson

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Letter to Eric Larson from Steven A. Reynolds dated May 7, 2012

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NRC SPECIAL INSPECTION REPORT 05000440/2012405(DRS)
PRELIMINARY GREATER THAN GREEN FINDING

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