

October 24, 2003

Mr. John L. Skolds  
Chairman and CEO  
AmerGen Energy Company, LLC  
4300 Winfield Road  
5<sup>th</sup> Floor  
Warrenville, IL 60555

SUBJECT: OYSTER CREEK - NRC EVALUATED EMERGENCY PREPAREDNESS  
EXERCISE INSPECTION REPORT 05000219/2003008

Dear Mr. Skolds :

The enclosed report documents an inspection at the Oyster Creek Nuclear Generating Station, which evaluated the performance of your emergency response organization during the September 9, 2003, full-participation exercise and the post-exercise critique as specified in the Reactor Oversight Process. The inspectors discussed the findings of this inspection with Mr. Ernest Harkness and other members of your staff on September 11, 2003.

This inspection was an examination of activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of a selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this exercise inspection, no findings of significance were identified. In addition, the report documents inspection follow up of a prior unresolved item that the NRC concluded to be an NRC-identified finding of very low safety significance (Green). If you contest the Green Finding in this report, you should provide a response within 30 days of the date of this inspection report, with the basis for your denial, to the Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington DC 20555-0001; with copies to the Regional Administrator Region I; the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001; and the NRC Resident Inspector at Oyster Creek.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure 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/reading-rm/adams.html> (the Public Electronic Reading Room).

Mr. John L. Skolds

Should you have any questions regarding this report, please contact me at (610) 337-5183.

Sincerely,

*/RA/*

Richard J. Conte, Chief  
Operational Safety Branch  
Division of Reactor Safety

Docket No. 50-219

License No. DPR-16

Enclosures: Inspection Report No. 05000219/2003008  
Attachment 1: Supplemental Information

cc w/encl:

Chief Operating Officer, AmerGen  
Site Vice President, Oyster Creek Nuclear Generating Station, AmerGen  
Plant Manager, Oyster Creek Generating Station, AmerGen  
Regulatory Assurance Manager Oyster Creek, AmerGen  
Senior Vice President - Nuclear Services, AmerGen  
Vice President - Mid-Atlantic Operations, AmerGen  
Vice President - Operations Support, AmerGen  
Vice President - Licensing and Regulatory Affairs, AmerGen  
Director Licensing, AmerGen  
Manager Licensing - Oyster Creek, AmerGen  
Vice President, General Counsel and Secretary, AmerGen  
Correspondence Control Desk, AmerGen  
J. Matthews, Esquire, Morgan, Lewis & Bockius LLP  
Mayor of Lacey Township  
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L. Canton, Regional Director, FEMA Region II

Mr. John L. Skolds

Distribution w/encl:

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U. S. NUCLEAR REGULATORY COMMISSION

REGION I

Docket No: 50-219

License No: DPR-16

Report No: 05000219/2003008

Licensee: AmerGen Energy Company, LLC (AmerGen)

Facility: Oyster Creek Generating Station

Location: Forked River, New Jersey

Dates: September 9-11, 2003

Inspectors: D. Silk, Sr. Emergency Preparedness Inspector (Lead)  
N. McNamara, Emergency Preparedness Inspector  
S. Dennis, Resident Inspector, Oyster Creek, DRP  
P. Bonnett, Reactor Engineer, ORA  
D. Jackson, Operations Engineer, DRS  
D. Schneck, Emergency Preparedness Specialist, NRR

Observers: J. Bobiak, Reactor Engineer, DRP  
B. Bickett, Reactor Engineer, DRS  
M. Maley, Reactor Operations Engineer, NRR

Approved by: Richard J. Conte, Chief  
Operational Safety Branch  
Division of Reactor Safety

## SUMMARY OF FINDINGS

IR 05000219/2003-008; on 09/9-11/2003; Oyster Creek Generating Station. Emergency Preparedness Exercise Report. Alert and Notification System.

This team inspection was conducted by regional based inspectors, a resident inspector, and an emergency preparedness specialist from NRR. One Green finding was identified. The significance of most findings is indicated by their color (Green, White, Yellow, Red) using Inspection Manual Chapter (IMC) 0609, "Significance Determination Process" (SDP). Findings for which the SDP does not apply may be Green or assigned a severity level after NRC management review. The NRC's program for overseeing the safe operation of commercial nuclear power reactors is described in NUREG-1649, "Reactor Oversight Process," Revision 3, dated July 2000.

### A. NRC-Identified Findings

Cornerstone: Emergency Preparedness

- Green. The licensee made changes to their ANS in the late 1980s without first submitting the proposed changes to FEMA for review and approval. (The licensee at that time was GPU Nuclear.) This was contrary to FEMA requirement 44 CFR 350.14.

This issue is more than minor because it pertains to the offsite attribute of the EP cornerstone in that the ANS existed in an indeterminate condition with respect to acceptability for about 15 years. NRC management review has determined the issue to be of very low safety significance based upon FEMA's response to the NRC (as stated in an April 2, 2003, letter) that the changes made by the licensee would have been acceptable if they had been submitted by the licensee for review and approval. (Section 1EP2)

### B. Licensee-Identified Findings

No findings of significance were identified.

## Report Details

### 1. REACTOR SAFETY

Cornerstone: Emergency Preparedness (EP)

#### 1EP1 Exercise Evaluation

##### a. Inspection Scope

An in-office review was conducted of the exercise objectives submitted to the NRC on June 9, 2003, and the exercise scenario submitted on July 9, 2003, to determine if the Oyster Creek exercise would test major elements of the emergency plan as required by 10 CFR 50.47(b)(14).

The onsite inspection consisted of the following review and assessment:

- The adequacy of AmerGen's performance on the biennial full-participation exercise performance by primarily focusing on the implementation of the risk-significant planning standards (RSPS) in 10 CFR 50.47 (b) (4), (5), (9) & (10) which are emergency classification, offsite notification, radiological assessment, and protective action recommendations, respectively.
- The overall adequacy of AmerGen's emergency response facilities and its implementation of NUREG-0696, "Functional Criteria for Emergency Response Facilities" and Emergency Plan commitments. The facilities assessed were the simulator, Technical Support Center (TSC), Operations Support Center (OSC) Emergency Operations Facility (EOF), and Joint Information Center (JIC).
- Other performance areas besides the RSPS, such as the emergency response organization's (ERO) recognition of abnormal plant conditions, command and control, intra- and inter-facility communications, prioritization of mitigation activities, utilization of repair and field monitoring teams, interface with offsite agencies, and the overall implementation of the emergency plan and its implementing procedures.
- Past performance issues from NRC inspection reports and AmerGen's drill reports to determine effectiveness of corrective actions as demonstrated during this exercise to ensure compliance with 10CFR50.47(b)(14).
- The post-exercise critique to evaluate AmerGen's self-assessment of its ERO performance during the exercise and to ensure compliance with 10CFR50 Appendix E.IV.F.2.g.

The inspectors reviewed various documentation which are listed in Attachment 1 to this report.

##### b. Findings

Enclosure

No findings of significance were identified.

1EP2 Alert and Notification System (ANS) Testing

a. Inspection Scope

An in-office review was conducted on May 20, 2003, of the licensee's actions regarding changes to the alert and notification system (ANS) (**URI 50-219/02-07-02**). Also, the inspector reviewed the Federal Emergency Management Agency's (FEMA) assessment of the issue as stated in the April 2, 2003, letter from FEMA to the NRC regarding the licensee's changes. The inspection was conducted in accordance with NRC Inspection Procedure 71114, Attachment 02. Planning standard 10 CFR 50.47(b)(5), the requirements of 10 CFR 50 Appendix E, and 10 CFR 50.54(q) were used as reference criteria.

b. Findings

Introduction

The licensee made changes to their ANS without first submitting the proposed changes to FEMA for review and approval. This was a violation of FEMA requirement 44 CFR 350.14. These changes had been in place for about 15 years until FEMA recently reviewed the changes and determined that they were acceptable. However, due to the potential impact on public health and safety associated with changing the ANS without prior approval or supporting documentation, NRC management has determined the licensee's action regarding this issue to be of very low safety significance (Green).

Description

During the time frame of 1987-1989, the licensee had removed five offsite sirens covering the southern tip of Long Beach Island, New Jersey which were identified in the licensee's ANS Prompt Notification System Design Report, submitted and approved by FEMA and the NRC in 1986. The sirens were located outside the 10-mile Emergency Planning Zone (EPZ). The State of New Jersey, Office of Emergency Management, had agreed to the removal of the sirens, but the licensee had no record that the removal was discussed with or approved by FEMA or the NRC. A further review of the design basis document revealed that 58 tone alert radios, used to supplement the ANS, were removed sometime in late 1989. According to the licensee, FEMA had granted approval to remove similar type radios around another nuclear power plant located within New Jersey and the State assumed that it was applicable for all nuclear power plants. The State then requested, and the licensee took action, to remove the radios. However, there was no record that the licensee informed or received approval by FEMA regarding these specific changes. In a letter dated November 15, 2002, the NRC requested that FEMA evaluate the changes. In an April 2, 2003, letter from FEMA to NRC (ML031910427), FEMA stated that the changes appeared to be significant and prior FEMA notification and approval would have been necessary. Had the changes been

Enclosure

submitted, FEMA's review would have concluded that the changes would have been acceptable because they did not reduce the effectiveness of the emergency plan.

The licensee did not comply with FEMA requirement 44 CFR 350.14 which states in part that "a significant change will be processed in the same manner as if it were an initial plan submission....The existing FEMA approval shall remain in effect while any significant changes are under review." The licensee had made changes to their ANS (removed sirens and tone alert radios) without first seeking FEMA's review and approval. The licensee made changes to their emergency plan to reflect the changes to the ANS. Therefore at the time of the emergency plan change the licensee did not know if a decrease in the effectiveness of the plan had occurred.

#### Analysis

The licensee did not comply with FEMA requirement 44 CFR 350.14 which states in part that "a significant change will be processed in the same manner as if it were an initial plan submission....The existing FEMA approval shall remain in effect while any significant changes are under review." Specifically, the licensee made changes to their ANS (removed sirens and tone alert radios) without first seeking FEMA's review and approval. This issue is not subject to traditional enforcement because it does not have an actual safety consequence, it does not impact the NRC regulatory process, and it was not willful. This issue affects the offsite attribute of the EP cornerstone objective to ensure that the licensee is capable of implementing adequate measures to protect the health and safety of the public in the event of a radiological emergency. It was determined to be more than minor because it pertains to the offsite attribute of the EP cornerstone in that the ANS existed in an indeterminate condition with respect to acceptability for about 15 years. The issue was not suited for the EP Significance Determination Process (SDP) because it is not associated with a failure to meet or implement a NRC regulatory requirement, it was not associated with a drill or exercise, nor was it associated with an actual event implementation. Because the issue is greater than minor and cannot be evaluated using the SDP, it is subject to NRC management review. Because the licensee did not comply with FEMA requirements and, because of the lack of documentation from the licensee to support the acceptability of the changes, NRC management review has determined the issue to be of Green (very low) safety significance. The issue is not greater than Green because based upon FEMA's response to the NRC (as stated in the April 2, 2003, letter) that the changes made by the licensee would have been acceptable if they had been submitted by the licensee for review and approval.



### Enforcement

The licensee made changes to their ANS sometime in the late 1980s without prior review and approval from FEMA as per 44 CFR 350.14. But because a violation of FEMA requirements is outside of the NRC's purview, no enforcement action is being taken the NRC. Due to FEMA's evaluation that the licensee's changes would have been acceptable, this finding does not present an immediate safety concern. This issue was entered into the licensee's corrective action program (CAP 2002-0955). The licensee is aware that this change, and future changes to the ANS, must be submitted to FEMA for review and approval. **(FIN 05000219/2003008-01)**

#### 1EP4 Emergency Action Level and Emergency Plan Changes

##### a. Inspection Scope

An in-office review was conducted of licensee submitted changes for the Emergency Plan-related documents received during the period of January - July 2003 to determine if the changes decreased the effectiveness of the Plan. A thorough review was conducted of documents related to the RSPS whereas a general review was conducted for non-RSPS documents. The inspection was conducted in accordance with NRC Inspection Procedure 71114, Attachment 04, and the applicable requirements in 10 CFR 50.54(q) were used as reference criteria.

##### b. Findings

No findings of significance were identified.

#### 4. **OTHER ACTIVITIES**

##### 4OA2 Identification and Resolution of Problems

##### a. Inspection Scope

The inspectors reviewed AmerGen's critique findings documented in the 1999 and 2002 exercise reports and in 2002 and 2003 drill reports to determine if significant performance trends exist and to determine the effectiveness of licensee corrective actions based upon ERO performance during the exercise. The inspectors verified that issues identified during this exercise were entered into AmerGen's corrective action program (CAP Nos. O2003-1812 and 1813). The inspectors also reviewed condition reports related to significant findings from past drill/exercise reports to assess the adequacy of the corrective actions. The inspection was conducted in accordance with NRC Inspection Procedure 71114, Attachment 01, 10 CFR 50.47(b)(14), and Appendix E IV.F.2.g were used as reference criteria.

b. Findings

No findings of significance were identified.

40A6 Meetings, including Exit

On September 11, 2003, the inspectors along with Mr. Richard Conte, Chief, Operational Safety Branch, Region I, presented the inspection results to Mr. Ernest Harkness and other members of AmerGen's staff who acknowledged the results. The inspectors confirmed that proprietary information was not provided or examined during the inspection.

## ATTACHMENT 1

### SUPPLEMENTAL INFORMATION

#### KEY POINTS OF CONTACT

##### Oyster Creek Nuclear Generating Station

C. Arnone, Emergency Preparedness Director  
J. Karkoska, Emergency Preparedness Manager, Exelon Mid-Atlantic  
P. Thompson, Emergency Preparedness Manager, Oyster Creek

#### LIST OF ITEMS OPENED, CLOSED, AND DISCUSSED

##### Opened/Closed

05000219/2003008-01	FIN	Failing to submit ANS system changes to FEMA for review and approval prior to making changes (Open)
05000219/2002007-02	URI	Changes to ANS without prior FEMA approval (Closed)

##### Discussed

None

#### LIST OF DOCUMENTS REVIEWED

Oyster Creek Generating Station Emergency Plan and Implementing Procedures

CAP O2002-0878, JIC Issues  
CAP O2002-0879, Scenario, Exercise, Management Issues  
CAP O2002-0880, Equipment Issues  
CAP O2002-0888, Performance Issues

October 5, 1999, Biennial Exercise Critique  
March 14, 2002, Drill Evaluation Report  
March 19, 2002, Drill Evaluation Report  
May 1, 2002, Pre-Exercise Evaluation Report  
June 4, 2002, Biennial Exercise Evaluation Report  
November 12, 2002, Training Drill Evaluation Report  
April 30, 2003, Drill Evaluation Report

Scenario No. 51, Rev 3; September 4, 2001  
Scenario No. 49, Rev 3; September 24, 2001  
Scenario No. 44, Rev 5; March 19, 2002  
Scenario No. 45, Rev 2; November 12, 2002  
Scenario No. 52, Rev 2; April 30, 2003  
Scenario No. 45, Rev 3; June 26, 2003  
Scenario No. 54, Rev 1; August 6, 2003

### **LIST OF ACRONYMS**

ANS	Alert and Notification System
CAP	Corrective Action Program
CR	Condition Report
EOF	Emergency Operations Facility
EP	Emergency Preparedness
EPZ	Emergency Planning Zone
ERO	Emergency Response Organization
FEMA	Federal Emergency Management Agency
JIC	Joint Information Center
OSC	Operations Support Center
RSPS	Risk Significant Planning Standard
SDP	Significant Determination Process
TSC	Technical Support Center