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December 10, 2004

U.S. Nuclear Regulatory Commission  
Attn: Document Control Desk  
Washington, DC 20555

Subject: Oyster Creek Spent Fuel Management Plan

On December 2, 2004, the State of New Jersey received, AmerGen's Spent Fuel Management Plan for Oyster Creek per 10CFR50.54(bb), "Conditions of Licenses." The Oyster Creek Spent Fuel Management Plan was submitted October 29, 2004 to the Nuclear Regulatory Commission. As a result, our review period is compressed.

Our understanding is that, Nuclear Regulatory Commission (NRC) regulation state, "For nuclear power reactors licensed by the NRC, the licensee shall, within 2 years following permanent cessation of operation of the reactor or 5 years before expiration of the reactor operating license, whichever occurs first, submit written notification to the Commission for its review and preliminary approval of the program by which the licensee intends to manage and provide funding for the management of all irradiated fuel at the reactor following permanent cessation of operation of the reactor until title to the irradiated fuel and possession of the fuel is transferred to the Secretary of Energy for its ultimate disposal in a repository. Licensees of nuclear power reactors that have permanently ceased operation by April 4, 1994 are required to submit such written notification by April 4, 1996. Final Commission review will be undertaken as part of any proceeding for continued licensing under part 50 or part 72 of this chapter. The licensee must demonstrate to NRC that the elected actions will be consistent with NRC requirements for licensed possession of irradiated nuclear fuel and that the actions will be implemented on a timely basis. Where implementation of such actions requires NRC authorizations, the licensee shall verify in the notification that submittals for such actions have been or will be made to NRC and shall identify them. A copy of the notification shall be retained by the licensee as a record until expiration of the reactor operating license."

ADD 1

The Oyster Creek Spent Fuel Management Plan is late. AmerGen did not submit a program by which they intend to manage all irradiated fuel at the reactor site following permanent cessation of operation of the plant or until the irradiated fuel is finally disposed. Oyster Creek may or may not operate after April 9, 2009, so it is our interpretation of the regulation that AmerGen must prepare a plan if they cease operation at Oyster Creek on April 9, 2009. It is our understanding that AmerGen must plan to ensure that all spent fuel pool supporting plant systems, components, and structures can safely operate beyond April 9, 2009. Currently, the Oyster Creek Spent Fuel Pool is not qualified to operate beyond April 9, 2009. The alternative to this qualification is to remove all of the irradiated fuel from the spent fuel pool prior to April 9, 2009. To store additional spent fuel at the Oyster Creek, AmerGen must obtain local approvals for storing more radioactive waste in an ISFSI. These few examples that highlight the importance of the submittal of a comprehensive Spent Fuel Management Plan.

Additionally, the purpose of the Oyster Creek Decommission Trust Fund is to ensure enough money exists to clean up the site of any radioactive material and not to pay for spent fuel management. According to AmerGen, spent fuel could remain at the Oyster Creek site until 2027. AmerGen estimated that the Spent Fuel Management annual costs between \$6 and \$10 million. Conservatively, the total Spent Fuel Management costs, without adjusted dollars, are \$180 million. The current Spent Fuel Management Plan does not properly address the funding required by NRC regulation.

If you have any questions, please contact Dennis Zannoni at 609 984 7440.

Sincerely,



Jill Lipoti, Ph. D.  
Assistant Director

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