

June 8, 2005

Mr. Christopher M. Crane
President and Chief Nuclear Officer
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4300 Winfield Road
Warrenville, IL 60555

SUBJECT: OYSTER CREEK NUCLEAR GENERATING STATION - ISSUANCE OF
AMENDMENT RE: MONTHLY OPERATING REPORT AND ANNUAL
OCCUPATIONAL RADIATION EXPOSURE REPORT (TAC NO. MC4946)

Dear Mr. Crane:

The Commission has issued the enclosed Amendment No. 254 to Facility Operating License No. DPR-16 for the Oyster Creek Nuclear Generating Station. This amendment consists of changes to the Technical Specifications (TSs) in response to your application dated October 21, 2004.

The amendment will delete the TS requirements to submit monthly operating reports and annual occupational radiation exposure reports. The change is consistent with Revision 1 of Nuclear Regulatory Commission approved Technical Specifications Task Force (TSTF) Change Traveler, TSTF-369, "Elimination of Requirements for Monthly Operating Reports and Occupational Radiation Exposure Reports." This TS improvement was published in the *Federal Register* (69 FR 35067) on June 23, 2004, as part of the Consolidated Line Item Improvement Process.

A copy of the related Safety Evaluation is also enclosed. Notice of Issuance will be included in the Commission's biweekly *Federal Register* notice.

Sincerely,

/RA/

Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-219

Enclosures: 1. Amendment No. 254 to DPR-16
2. Safety Evaluation

cc w/encls: See next page

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AMERGEN ENERGY COMPANY, LLC

DOCKET NO. 50-219

OYSTER CREEK NUCLEAR GENERATING STATION

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 254
License No. DPR-16

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by AmerGen Energy Company, LLC, et al., (the licensee), dated October 21, 2004, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance: (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, the license is amended by changes to the Technical Specifications as indicated in the attachment to this license amendment, and paragraph 2.C.(2) of Facility Operating License No. DPR-16 is hereby amended to read as follows:

(2) Technical Specifications

The Technical Specifications contained in Appendices A and B, as revised through Amendment No. 254, are hereby incorporated in the license. AmerGen Energy Company, LLC, shall operate the facility in accordance with the Technical Specifications.

3. This license amendment is effective as of the date of issuance and shall be implemented within 60 days of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Richard J. Laufer, Chief, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Attachment: Changes to the Technical
Specifications

Date of Issuance: June 8, 2005

ATTACHMENT TO LICENSE AMENDMENT NO. 254

FACILITY OPERATING LICENSE NO. DPR-16

DOCKET NO. 50-219

Replace the following page of the Appendix A, Technical Specifications, with the attached revised page as indicated. The revised page is identified by amendment number and contains marginal lines indicating the areas of change.

Remove

6-13

Insert

6-13

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO AMENDMENT NO. 254

TO FACILITY OPERATING LICENSE NO. DPR-16

AMERGEN ENERGY COMPANY, LLC

OYSTER CREEK NUCLEAR GENERATING STATION

DOCKET NO. 50-219

1.0 INTRODUCTION

By application dated October 21, 2004 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML042990134), AmerGen Energy Company, LLC (the licensee) proposed changes to the Technical Specifications (TSs) for the Oyster Creek Nuclear Generating Station (OCNGS).

The proposed amendment would delete the TS requirements to submit monthly operating reports (MORs) and annual occupational radiation exposure reports (ORERs). The change is consistent with Revision 1 of NRC-approved Industry/Technical Specifications Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF-369, "Elimination of Requirements for Monthly Operating Reports and Occupational Radiation Exposure Reports." This TS improvement was published in the *Federal Register* (69 FR 35067) on June 23, 2004, as part of the Consolidated Line Item Improvement Process (CLIP).

On April 8, 2005, the NRC staff published its no significant hazards consideration determination in the *Federal Register* (70 FR 18056), meanwhile stating that the requested amendment may be issued under exigent circumstances per 10 CFR 50.91(a)(6). Subsequently, the NRC staff found that such exigent circumstances did not exist. Accordingly, the amendment is issued after a full 60-day public comment period.

2.0 REGULATORY EVALUATION

Section 182a. of the Atomic Energy Act of 1954, as amended, (the Act) requires applicants for nuclear power plant operating licenses to propose such TSs as the Commission may deem necessary. Such TSs shall be a part of the license issued. The Commission's regulatory requirements related to the content of TSs are set forth in 10 CFR 50.36, "Technical specifications." The regulation requires that TSs include items in five specific categories, including (1) safety limits, limiting safety system settings, and limiting control settings; (2) limiting conditions for operation (LCOs); (3) surveillance requirements; (4) design features; and (5) administrative controls. However, the regulation does not specify the particular requirements to be included in a plant's TSs.

The Commission has provided guidance for the content of TSs in its "Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors" (58 FR 39132, published July 22, 1993), in which the Commission indicated that compliance with the Final Policy Statement satisfies Section 182a. of the Act. The Final Policy Statement identified four criteria to be used in determining whether a particular item should be addressed in the TSs as an LCO. The criteria were subsequently incorporated into 10 CFR 50.36 (60 FR 36593, published July 19, 1995). While the criteria specifically apply to LCO, the Commission indicated that the intent of these criteria may be used to identify the optimum set of administrative controls in TSs. Addressing administrative controls, 10 CFR 50.36 states that they are "the provisions relating to organization and management, procedures, record keeping, review and audit, and reporting necessary to assure operation of the facility in a safe manner." The specific content of the administrative controls section of the TSs is, therefore, related to those programs and reports that the Commission deems essential for the safe operation of the facility, that are not adequately covered by regulations or other regulatory requirements. Accordingly, the NRC staff may determine that specific requirements, such as those associated with this change, may be removed from the administrative controls in the TSs if they are not explicitly required by 10 CFR 50.36(c)(5) and are not otherwise necessary to obviate the possibility of an abnormal situation or event giving rise to an immediate threat to the public health and safety.

The impetus for the MOR came from the 1973-1974 oil embargo. Regulatory Guide 1.16, Revision 4, "Reporting of Operating Information--Appendix A Technical Specifications," published for comment in August 1975, identifies operating statistics and shutdown experience information that was desired in the operating report at that time. In the mid-1990s, the NRC staff assessed the information that is submitted in the MOR and determined that, while some of the information was no longer used by the NRC staff, the MOR was the only source of some data used in the NRC Performance Indicator (PI) Program of that time period (see NRC Generic Letter (GL) 97-02, "Revised Contents of the Monthly Operating Report"). Beginning in the late 1990s, the NRC developed and implemented a major revision to its assessment, inspection, and enforcement processes through its Reactor Oversight Process (ROP). The ROP uses both plant-level PI and inspections performed by NRC personnel. In conjunction with the development of the ROP, the NRC developed the Industry Trends Program (ITP). The ITP provides the NRC a means to assess overall industry performance using industry level indicators and to report on industry trends to various stakeholders (e.g., Congress). Information from the ITP is used to assess the NRC's performance related to its goal of having "no statistically significant adverse industry trends in safety performance." The ITP uses some of the same PIs as the PI Program from the mid-1990s and, therefore, the NRC has a continuing use for the data provided in the MOR. The NRC staff also uses some data from the MOR to support the evaluation of operating experience, licensee event reports, and other assessments performed by the NRC staff and its contractors.

The reporting requirements for the MOR include challenges to the safety/relief valves. The reporting of challenges to the safety/relief valves was included in TSs based on the guidance in NUREG-0694, "[Three Mile Island] TMI-Related Requirements for New Operating Licenses," June 1980. The industry proposed and the NRC accepted the elimination of the reporting requirements in TSs for challenges to safety/relief valves in Revision 4 to TSTF-258, "Changes to Section 5.0, Administrative Controls." The NRC staff's acceptance of TSTF-258 and subsequent approval of plant-specific adoptions of TSTF-258 is based on the fact that the information on challenges to relief and safety valves is not used in the evaluation of the MOR

data, and that the information needed by the NRC is adequately addressed by the reporting requirements in 10 CFR 50.73, "Licensee event reports."

Licensees are required by TSs to submit annual ORER to the NRC. These reports, developed in the mid-1970s, supplement the reporting requirements currently defined in 10 CFR 20.2206, "Reports of individual monitoring," by providing a tabulation of data by work areas and job functions. The NRC included data from the ORER in its annual publication of NUREG-0713, "Occupational Radiation Exposure at Commercial Nuclear Power Reactors and Other Facilities," through the year 1997, but no longer includes the data in that or other reports.

3.0 TECHNICAL EVALUATION

3.1 MORs (Section 6.9.1.c for OCNCS TSs)

As previously mentioned, the administrative requirements in the TSs are reserved for "the provisions relating to organization and management, procedures, record keeping, review and audit, and reporting necessary to assure operation of the facility in a safe manner." The current use of the information from the MOR is not related to reporting on or confirming the safe operation of specific nuclear power plants. Instead, the data is used by the NRC to assess and communicate with stakeholders regarding the overall performance of the nuclear industry. Data related to PIs for specific plants are reported to the NRC as part of the ROP. The NRC staff has determined that the MOR does not meet the criteria defined for requirements to be included in the administrative section of TSs and the reporting requirement may, therefore, be removed.

Although the MOR does not satisfy the criteria for inclusion in TSs, the NRC staff, nevertheless, has a continuing need to receive the data in order to compile its reports on industry trends and to support other evaluations of operating experience. In addition, information such as plant capacity factors that are reported in the MOR are useful to the NRC staff and are frequently asked for by agency stakeholders.

The NRC staff interacted with licensees, industry organizations, and other stakeholders during the development of the Consolidated Data Entry (CDE) program (currently being developed and maintained by the Institute of Nuclear Power Operations (INPO)), regarding the use of an industry database like CDE to provide data currently obtained from MOR. These discussions also involved the related Revision 1 to TSTF-369, "Removal of Monthly Operating Report and Occupational Radiation Exposure Report." As described in Section 4.0 of this safety evaluation (SE), the licensee is making a regulatory commitment to continue to provide the data identified in GL 97-02, following the removal of the TS requirement to submit an MOR, and will therefore, continue to meet the needs of the NRC staff for the ITP and other evaluations. The use of an industry database such as CDE is more efficient and cost-effective for both the NRC and licensees than would be having the NRC staff obtain the needed information from other means currently available. Should a licensee fail to satisfy the regulatory commitment to voluntarily provide the information, the NRC could obtain the information through its inspection program (similar to the process described in NRC Inspection Procedure 71150, "Discrepant or Unreported Performance Indicator Data") with the licensee being charged for the time spent by the NRC staff.

The only significant changes resulting from the adoption of TSTF-369 are that the information will be provided quarterly instead of monthly (although the operating data will still be divided by

month) and the form of the reporting will be from a consolidated database such as CDE instead of in correspondence from individual licensees. The change of reporting frequency to quarterly has some advantages for both the NRC staff and licensees, since it will coincide with the collection and submission of the ROP PI data. In terms of the specific method used to transmit the data to the NRC, the licensee has committed (see Section 4.0 below) to provide data identified in GL 97-02 on a quarterly basis. The NRC staff believes that the most efficient process for licensees and the NRC will be for all licensees to use a system such as CDE. Such systems have advantages in terms of improved data entry, data checking, and data verification and validation. The NRC will recognize efficiency gains by having the data from all plants reported using the same computer software and format. Although the data may be transmitted to the NRC from an industry organization maintaining a database such as CDE, the licensee provides the data for the system and remains responsible for the accuracy of the data submitted to the NRC for its plant(s). The public will continue to have access to the data through official agency records accessible in ADAMS.

The content requirements for the OCNCS MOR currently include information on challenges to the safety/relief valves. As discussed in the previous section, the NRC staff has documented in its approval of TSTF-258 and related plant-specific amendments that the reporting of challenges to safety/relief valves may be removed from TSs since the information needed by the NRC is adequately addressed by the reporting requirements in 10 CFR 50.73, "Licensee event report." The NRC staff finds it acceptable to remove the requirement to report challenges to safety/relief valves along with the other reporting requirements associated with the MOR.

3.2 ORERs (Section 6.9.1.b for the OCNCS TSs)

The information that the NRC staff needs regarding occupational doses is provided by licensees in the reports required under 10 CFR Part 20. The data from the Part 20 reports are sufficient to support the NRC trending programs, radiation-related studies, and preparation of reports such as NUREG-0713. Accordingly, the NRC's limited use of the ORER submitted pursuant to the existing TS requirements no longer warrants the regulatory burden imposed on licensees. Therefore, the NRC staff finds it acceptable to delete Section 6.9.1.c for OCNCS.

4.0 VERIFICATIONS AND COMMITMENTS

In order to efficiently process incoming license amendment applications, the NRC staff requested each licensee requesting the changes addressed by TSTF-369 using the CLIIP to address the following plant-specific regulatory commitment.

Each licensee should make a regulatory commitment to provide to the NRC using an industry database the operating data (for each calendar month) that is described in GL 97-02 "Revised Contents of the Monthly Operating Report," by the last day of the month following the end of each calendar quarter. The regulatory commitment will be based on use of an industry database (e.g., the industry's CDE program, currently being developed and maintained by the Institute of Nuclear Power Operations).

The licensee has made a regulatory commitment to provide to the NRC using an industry database the operating data (for each calendar month) that is described in GL 97-02. The regulatory commitment will be based on use of an industry database (e.g., the industry's CDE program, currently being developed and maintained by INPO). This regulatory commitment will

be implemented to prevent any gaps in the monthly operating statistics and shutdown experience provided to the NRC (i.e., data for all months will be provided using one or both systems (MOR and CDE)).

The NRC staff finds that reasonable controls for the implementation and for subsequent evaluation of proposed changes pertaining to the above regulatory commitments can be provided by the licensee's administrative processes, including its commitment management program. The NRC staff has agreed that Nuclear Energy Institute 99-04, Revision 0, "Guidelines for Managing NRC Commitment Changes," provides reasonable guidance for the control of regulatory commitments made to the NRC staff (see Regulatory Issue Summary 2000-17, "Managing Regulatory Commitments Made by Power Reactor Licensees to the NRC Staff," dated September 21, 2000). The NRC staff notes that this amendment establishes a voluntary reporting system for the operating data that is similar to the system established for the ROP PI Program. Should the licensee choose to incorporate a regulatory commitment into the final safety analysis report or other document with established regulatory controls, the associated regulations would define the appropriate change control and reporting requirements.

5.0 STATE CONSULTATION

In accordance with the Commission's regulations, by letter dated January 4, 2005, the State of New Jersey provided the following comment on the licensee's application dated October 21, 2004.

The New Jersey Department of Environmental Protection's Bureau of Nuclear Engineering reviewed the request in accordance with the requirements of 10 CFR 50.91(b) and has the following comments. We find the Monthly Operating Report to be of little value and have no comments regarding its elimination. However, the Annual Exposure Data Report is useful and we believe the Technical Specifications should not be changed with respect to this report. This report provides positive confirmation to the public that actual radiological exposures to workers is consistently much less than regulatory limits. This is data that would be compiled by AmerGen with or without the technical specification requirement, consequently we see no significant reduction in regulatory burden by eliminating the reporting requirement. We recognize that the NRC compiles industry data and publishes it in a NUREG. Unfortunately, that information is not as timely as the data published as a result of the technical specification requirement.

NRC Response:

The NRC staff recognizes that any change to the flow of information between the NRC and its licensees may affect other agency stakeholders. The staff solicited comments on the generic FRN dated April 29, 2004 (69 FR 23542). The NRC received no negative comments regarding the elimination of the ORER in response to that solicitation. The staff subsequently published the notice of availability for this TS improvement and has issued numerous amendments deleting the reporting requirement from plant-specific TSs.

The required ORER being deleted from TS includes a list of the total number of personnel (with annual doses greater than 100 millirem) and the corresponding collective dose grouped by work

and job function. Because the reports group workers by work and job functions, the data cannot be accurately used to determine individual worker doses to see how these doses compare to regulatory limits. This can only be found using the dose data submitted in accordance with 10 CFR 20.2206 and these results are provided in NUREG-0713. The NRC publishes NUREG-0713 approximately 6 months after its receipt of information submitted in accordance with 10 CFR 20.2206 (due by April 30, which is the same reporting date as the ORER). As shown in the NUREG report, the average measurable dose per worker at commercial nuclear power plants continues to decline and is at an average of 0.16 rem per worker in 2003. This is well below the dose limit for adults of 5 rem specified in 10 CFR 20.1201. Information regarding significant doses to individuals would continue to be submitted to the NRC in accordance with 10 CFR 20.2202, "Notification of Incidents," and 10 CFR 20.2203, "Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits." These reports are generally accessible by accessing the NRC web site. Information about licensees' occupational radiation safety programs is also available in NRC inspection reports and PI data posted on the NRC web site as part of the ROP. The NRC staff continues to believe that sufficient information regarding occupational exposure is provided to the public and that licensees may be relieved from the requirement to provide the specific estimates and tabulations currently included in the ORER.

The NRC staff regrets any problems this change in reporting requirements introduces to the State of New Jersey. However, in considering the comment, the NRC staff has not identified a reason to withdraw the generic notice of availability for this change or to deny the request from the licensee to adopt the change for OCNCS.

6.0 ENVIRONMENTAL CONSIDERATION

The amendments relate to changes in record keeping, reporting, or administrative procedures or requirements. Accordingly, the amendments meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(10). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendments.

7.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributor: W. Reckley

Date: June 8, 2005

Oyster Creek Nuclear Generating Station

cc:

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