

TOWNSHIP OF BRICK

OFFICE OF THE MAYOR

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DOCKET NUMBER
PETITION FILE # 54-03
(70 FR 54310)

July 7, 2005

U.S. Nuclear Regulatory Commission
Annette L. Vietti-Cook, Secretary
Washington, DC 20555-0001

DOCKETED
USNRC

July 25, 2005 (11:30am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Attention: Rulemaking and Adjudications Staff

Subject: Petition for Rulemaking
Amendment to 10 C.F.R. Part 54

Dear Madam Secretary,

Pursuant with NRC Regulation 10 C.F.R. §2.802, which permits interested persons to petition the Commission to issue, amend, or rescind regulations, that — formally request that part 54, Requirements for Renewal of Operating Licenses for Nuclear Power Plants, of the Commission’s Regulations (10 C.F.R. Part 54) be amended.

A. *The Proposed Amendment*

The Township of Brick petitions that 10 C.F.R. Part 54, “Requirements for Renewal of Operating Licenses of Nuclear Power Plants,” be amended so as to provide that a renewed license will be issued only if the plant operator demonstrates that the plant meets all criteria and requirements that would be applicable if the plant was being proposed de novo for initial construction. In particular, 10 C.F.R. §54.29 should be amended to provide that a renewed license may be issued by the Commission if the Commission finds that, upon a de novo review, the plant would be entitled to initial operating licenses, as set out in the Commission’s regulations, including Parts 2, 19, 20, 21, 26, 30, 40, 50, 51, 54, 55, 73, 100 and the appendices thereto. Corresponding amendments should be made to 10 C.F.R. §§54.4, 54.19, 54.21 and 54.23. NRC Regulation 10 C.F.R. §54.30 should be rescinded. The criteria to be examined as part of a renewal application should include such factors as demographics, siting, emergency

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evacuation plans, site security, etc. This analysis should be performed in a manner that focuses the NRC's attention on the critical plant-specific factors and conditions that have the greatest potential to affect public safety.

B. *Interest in the Action Requested*

Brick Township is situated in the northern part of Ocean County, directly on the border of Monmouth County. Brick Township is located approximately 18 miles north of the Oyster Creek Nuclear Generating Station. Like the majority of municipalities in Ocean County, Brick Township experienced great growth over the past four decades. Today, Brick Township is home to over 77,000 residents. In 1970, Brick Township had 35,057 residents.

Ocean County is located on the Jersey Shore, approximately 50 miles south of New York City and 50 miles east of Philadelphia, Pennsylvania. Ocean County encompasses nearly 640 square miles. It's location on the Atlantic Ocean makes Ocean County one of the premier tourist destinations in the United States.

The Oyster Creek Nuclear Generating Station, which is located in Lacey Township, became operational in 1969. In 1970, one year after Oyster Creek began producing electricity, Ocean County, New Jersey had 208,470 residents. According to the 2000 Census, Ocean County today has 510,916 residents, a growth of over 245%.

C. *Specific Issues Which Support this Proposal*

There have been numerous incidents that have occurred since Oyster Creek began operating that have raised concerns among many people about using nuclear power to generate energy, particularly in densely populated area. The near catastrophe at Three Mile Island, the realized catastrophe at Chernobyl, the controversy about Yucca Mountain and the terrorist attacks of September 11, 2001 have raised concerns about the safety and security of nuclear power plants.

The evacuation of the communities surrounding Oyster Creek is of particular concern and require extensive review and consideration. Traffic congestion is a growing concern in Ocean County as the infrastructure has not kept up with the population growth. Any large scale evacuation would likely be fraught with difficulties that would endanger lives.

D. *The Problems with the Current Process*

It is respectfully submitted that the process and criteria and presently established in Part 54 is seriously flawed. The process for license renewal appears to be based on the theory that if the plant was licensed originally at the site, it is satisfactory to renew the license, barring any significant issues having to do with passive systems, structures and components ("SSC"s). The regulations, however, should be broadened and sufficiently comprehensive to cover all of the facets (including consideration of a worst-case scenario) that were considered for initial construction. Alternatively, the license renewal process should examine all issues related to the plant and its original license, and then concentrate on any issues that are new to that plant or has changed since the original license was issued or that deviate from the original licensing basis.

Many key factors that affect nuclear plant licensing evolve over time. Population grows, local/state/federal regulations evolve, public awareness increases, technology improves, and plant economic values change. As a result, roads, and infrastructures required for a successful evacuation may not improve along with population density, inspection methods may not be adopted or may be used inappropriately, and regulations may alter the plants design after commercial operation. All of these factors should be examined and weighed in the formal 10 CFR Part 54 relicensing process.

E. *Key Renewal Issues*

As Oyster Creek approaches the end of its 40 year operating license, it is necessary to answer important questions about the plant. These questions are specific to the Oyster Creek plant and those who live near the plant deserve to have these questions reviewed:

- Could a new plant, designed and built to current standards, be licensed on the same site today? With the growth of Ocean County, which continues today, it is not certain that a nuclear plant would be permitted there today.
- The design of Oyster Creek's reactor has been prohibited for nearly four decades. Does that reactor conform to today's standards? Would Oyster Creek receive a license today with that reactor?
- In light of the terrorist attacks of 9/11, would Oyster Creek's storage system, which is located close to Route 9, be acceptable today?
- Is the evacuation plan realistic in today's Ocean County? Would the tremendous growth of Ocean County over the past four decades, and the failure of Ocean County's infrastructure to keep pace with this growth, inhibit Oyster Creek's likelihood of receiving an operating license?

- Would a license be permitted in light of the public opposition to the plant? To date, 21 municipalities in Ocean County, as well as Congressmen Smith, Saxton and Pallone, NJ Department of Environmental Protection Commissioner Bradley Commissioner, and the Ocean County Board of Chosen Freeholders, have expressed either their concern for a thorough review and/or their opposition to the re-licensing.

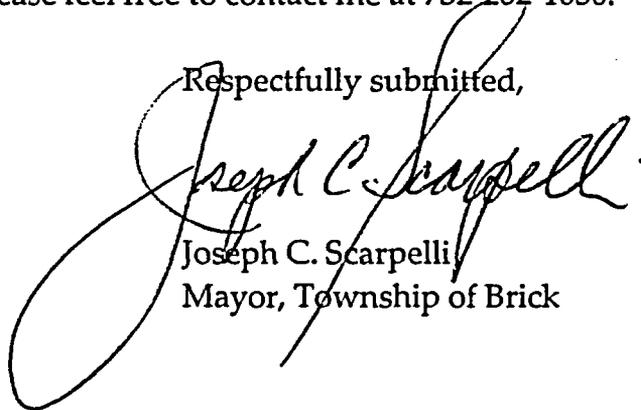
F. Conclusion

We trust that the information provided is sufficient to support our request for amendment to 10 CFR Part 54. We would welcome the opportunity to speak with you about the specific sections with which we have concerns and provide you with any further information.

We respectfully request that a docket number be assigned to this petition, that the petition be formally docketed, and that a copy of this petition be made available for public comment.

Should you have any questions, please feel free to contact me at 732-262-1050.

Respectfully submitted,

A large, stylized handwritten signature in black ink, which appears to read "Joseph C. Scarpelli". The signature is written over the typed name and title.

Joseph C. Scarpelli
Mayor, Township of Brick

RESOLUTION 062-04

WHEREAS the Oyster Creek Nuclear Power Plant may submit a request to the Nuclear Regulatory Commission for an extension of its license to continue to operate this facility through 2029; and

WHEREAS the Oyster Creek Nuclear Power Plant is the oldest operating nuclear plant in the United States and is located in Lacey Township, approximately fifteen miles from the Township of Brick; and

WHEREAS this aged facility poses a potential risk to all residents of Ocean County, including the Township of Brick, as nuclear power plants have been cited as being possible targets for future terrorist attacks; and

WHEREAS any attack on the plant, or other unforeseen accident which could result from the age related degradation of the facility, could have catastrophic effects on the Jersey Shore as exposure to the radioactive material would effect those trying to evacuate and would put the continued inhabitability of entire communities at risk; and

WHEREAS, in addition, Strontium 90, which is known to kill marine life, has been detected in the discharge of nuclear plants and it has been found in teeth samples of numerous children throughout Ocean County including 18 in the Township of Brick; and

WHEREAS Strontium 90 poses a serious risk to our children as it weakens the immune system and makes the body more susceptible to cancer causing agents; and

WHEREAS, if granted, the extension of the Plant's license would ensure that one of the principal threats to the safety of our children, grandchildren and communities would continue to operate until 2029, increasing stockpiles of radioactive waste; and

WHEREAS, IN 1985, The Nuclear Regulatory Commission (NRC) reported that the Mark 1 Nuclear Reactor Containment System is of faulty design and there would be a 90 percent failure rate in case of an accident therefore making it necessary to vent the pressure buildup to avoid rupturing the containment system. However, venting the radioactive materials to the air defeats the containment plan altogether and would expose the public to high doses of radiation; and

WHEREAS the Township Council acknowledges that there are safer, cleaner and more reliable renewable energy sources than nuclear power available to us today.

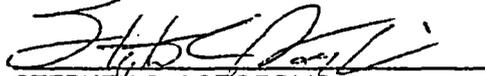
NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Brick, County of Ocean, State of New Jersey, on behalf of all Township residents as follows:

1. The Township Council does hereby declare its unequivocal opposition to the granting of a license extension to Exelon Nuclear Corporation for the operation of the Oyster Creek Nuclear Generating Station; and
2. The Township Council further calls for the immediate closure and decommissioning of the Oyster Creek Nuclear Power Plant; and
3. The Township Council calls for the development of clean, safe and reliable energy sources to replace the Oyster Creek Nuclear Power Plant while utilizing the existing transmission grid; and
4. The Township Council encourages further examinations in ways to utilize the facility in a manner that would benefit the employees of the plant, their families and the financial interests of the people of Lacey Township and Ocean County and
5. That the current government subsidies to the Township of Lacey as a host community be continued so long as any regional power-generated facilities

remain in use within the Township; and

6. That the Municipal Clerk forward a copy of this Resolution to Governor James E. McGreevey, State Senator Andrew Ciesla, Assemblymen David Wolfe and James Holzapfel, the Ocean County Board of Chosen Freeholder's, the New Jersey Department of Environmental Protection, the Nuclear Regulatory Commission, Jersey Shore Nuclear Watch and the Townships of Berkeley, Little Egg Harbor, Stafford, Dover, Jackson, Lacey, Lakewood, Manchester and Barnegat and the Boroughs of Point Pleasant, Point Pleasant Beach, Lavallette, Waretown, Surf City, South Toms River, Island Heights, Harvey Cedars, Bay Head, Mantoloking, Seaside Park and Seaside Heights.

ADOPTED: JANUARY 27, 2004



STEPHEN C. ACROPOLIS
COUNCIL PRESIDENT

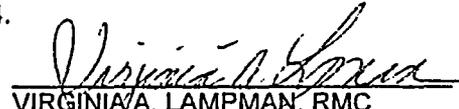


ASSISTANT TOWNSHIP CLERK

CERTIFICATION

I, Virginia A. Lampman, Assistant Township Clerk of the Township of Brick, County of Ocean and State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a resolution adopted by the Township Council on January 27, 2004

IN WITNESS WHEREOF, I have hereunto set my hand and seal of this Township this 27th day of January 2004.



VIRGINIA A. LAMPMAN, RMC
ASSISTANT TOWNSHIP CLERK