

January 4, 2006

Mr. Christopher M. Crane
President and Chief Executive Officer
AmerGen Energy Company, LLC
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: OYSTER CREEK NUCLEAR GENERATING STATION - ISSUANCE OF
AMENDMENT RE: REVISION OF APPENDIX B, ENVIRONMENTAL
TECHNICAL SPECIFICATIONS (TAC NO. MC5467)

Dear Mr. Crane:

The Nuclear Regulatory Commission (Commission) has issued the enclosed Amendment No. 257 to Facility Operating License No. DPR-16 for the Oyster Creek Nuclear Generating Station, in response to your application dated December 17, 2004.

The amendment revises Appendix B, Environmental Technical Specifications, of the Oyster Creek Nuclear Generating Station Facility Operating License, principally by deleting redundant reporting requirements, aligning various requirements with regulations and accepted guidance documents, and correcting administrative errors.

A copy of our safety evaluation is also enclosed. Notice of Issuance will be included in the Commission's biweekly *Federal Register* notice.

Sincerely,

/RA/

G. Edward Miller, Project Manager
Plant Licensing Branch 1-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-219

Enclosures: 1. Amendment No. 257 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. 257
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 December 17, 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 Environmental Technical Specifications contained in Appendix B, 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. 257, 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 by VNurses for/

Darrell J. Roberts, Chief
Plant Licensing Branch 1-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Attachment: Changes to Appendix B
Environmental Technical Specifications

Date of Issuance: January 4, 2006

ATTACHMENT TO LICENSE AMENDMENT NO. 257

FACILITY OPERATING LICENSE NO. DPR-16

DOCKET NO. 50-219

Replace the following pages of Appendix B, Environmental Technical Specifications, with the attached revised pages as indicated. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Remove

1-1
1-3
2-1
3-1
3-2
3-3
3-4
3-5

Insert

1-1
1-3
2-1
3-1
3-2
3-3
3-4
3-5

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO AMENDMENT NO. 257

TO FACILITY OPERATING LICENSE NO. DPR-16

AMERGEN ENERGY COMPANY, LCC

OYSTER CREEK NUCLEAR GENERATING STATION

DOCKET NO. 50-219

1.0 INTRODUCTION

By application dated December 17, 2004 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML043640436), Exelon Generation Company, LLC, and AmerGen Energy Company, LLC (Amergen or the licensee), requested changes to Appendix B (Environmental Technical Specifications (ETS) or Environment Protection Plan), for Braidwood Station, Units 1 and 2; Byron Station, Units 1 and 2; Clinton Power Station, Unit 1; LaSalle County Station, Units 1 and 2; Limerick Generating Station, Units 1 and 2; Oyster Creek Nuclear Generating Station (OCNGS); Peach Bottom Atomic Power Station, Units 2 and 3; and Quad Cities Nuclear Power Station, Units 1 and 2.

The Nuclear Regulatory Commission (NRC or the Commission) staff reviewed the licensee's application as it pertains to OCNGS. Accordingly, this safety evaluation addresses only AmerGen's proposed changes to Appendix B of the OCNGS facility operating license. As discussed below, the proposed amendment would revise the ETS of OCNGS by clarifying a number of items without changing the original purposes, by removing the requirement for an annual report, by updating terminology, by deleting obsolete program information, and by standardizing wording in the ETS.

2.0 REGULATORY EVALUATION

The ETS was established during initial plant operation to require monitoring of environmental issues such as potential erosion along the transmission lines and the cooling tower drift impact on vegetation, noise, and cultural resources issues. The regulatory basis for the establishment of the ETS is Section 50.36b, "Environmental conditions," of Title 10 of the *Code of Federal Regulations* (10 CFR). This section authorizes the NRC staff to place conditions in a license to protect the environment. The regulation states that the conditions will identify the "obligations of the licensees in the environmental area, including, as appropriate, requirements for reporting and keeping records of environmental data, and any conditions and monitoring requirement for

the protection of the nonaquatic environment”; and that the conditions will be derived from the licensee’s environmental report and NRC’s evaluation in the record of decision. However, in the March 12, 1984, statements of consideration for the final rule that created 10 CFR 50.36b, the Commission stated that the NRC “may also include additional environmental conditions as appropriate.”

3.0 TECHNICAL EVALUATION

The licensee proposed to make changes to a number of sections in the ETS, as identified below. The NRC staff’s evaluation of each proposed change is set forth below.

Section 1.0, “Environmental Monitoring (Bases)”

The licensee proposed to delete two paragraphs on Page 1-3 which address the bases for the need for data on fish mortality due to station shutdown in winter months. The same two paragraphs already exist on Page 1-2 (i.e., the paragraphs on Page 1-3 are inadvertent duplicates).

The NRC staff agrees that deleting these duplicate paragraphs on Page 1-3 is purely administrative and is, therefore, acceptable.

Section 1.1.1 A, “Fish Kill Monitoring Program”

This section discusses the reporting requirements for planned shutdowns with the temperature of the intake water below 8.5 degrees C. The licensee proposed to delete the reference to the Annual Environmental Operating Report because the requirement for the Annual Environmental Operating Report is being deleted (see discussion below for Section 3.5.1).

The NRC staff’s analysis and conclusion regarding the need for the Annual Environmental Operating Report is discussed in the evaluation for Section 3.5.1. Without the annual report, the NRC staff will not receive the results of this program. However, these results will be available for NRC staff review on site. In addition, Section 3.1 will still require the licensees to obtain NRC staff approval for any changes that involve an unreviewed environmental question. Based on this, the NRC staff concludes that the removal of the reference to the Annual Environmental report is acceptable.

Section 2.1, “Unusual or Important Environmental Events”

Currently, this section requires, among other things, that should an unusual or important event occur, the licensee shall make a prompt report (i.e., within 24 hours) to the NRC. Such events are defined as any occurrence that indicates, or could result in, significant environmental impact causally related to plant operation. The licensee proposed to add a statement to specify that, for an important or unusual event, a duplicate immediate report is not required by the ETS if the subject event is already reportable under 10 CFR 50.72 (regarding immediate notification requirements).

The NRC's requirements at 10 CFR 50.72(b)(2)(xi) states that the licensee shall notify the NRC as soon as practical and in all cases, within four hours of the occurrence of "[a]ny event or situation, related to the health and safety of the public or onsite personnel, or protection of the environment, for which a news release is planned or notification to other government agencies has been or will be made." The licensee's proposed change will relieve the administrative burden of making duplicate reports to the NRC for the same event. Follow-up written reports are still required to be submitted in accordance with the ETSSs.

The NRC staff agrees that this change is a clarification to avoid potential duplicate reporting requirements. The NRC staff recognizes that at the time the OCNGS ETS were developed, there was no environmental reporting requirement in 10 CRR 50.72, and thus there was no potential for duplicate reporting. Accordingly, the NRC staff finds the proposed change acceptable.

Section 3.2, "Organization"

The licensee proposed to correct a typographical error in the second sentence of this section, which will read "Organization charts will be documented....."

The NRC staff agrees that this is a purely editorial change and finds it acceptable.

Section 3.3, "Review and Audit"

The licensee proposed to revise this section to specify that the review and audit frequency will be mandated by the Quality Assurance Topical Report (QATR). The QATR sets the audit and review frequency at two years, which is longer than the current requirement of one year. The two-year frequency is an administrative change consistent with review and audit requirements at the other Exelon and AmerGen facilities. This, in turn, is consistent with the requirements of American Nuclear Society 3-2 /American National Standards Institute N18.7-1976, "Administrative controls and quality assurance for the operational phase of nuclear power plants".

Based on the above evaluation, the NRC staff finds the proposed change acceptable.

Section 3.5.1, "Routine Reports"

The licensee proposed to delete the entire section. The general justification is presented in Section 4.1 of the December 17, 2004, application. The licensee provided further justification specific to OCNGS as follows:

This section requires an annual environmental operating report to be submitted to the NRC within 90 days after January 1 of each year. The report includes a summary of the results of environmental monitoring required by Section 1 and Section 2 of the ETS. The annual report also includes all non-routine environmental operating reports and the corrective actions taken to remedy them, changes made to state and federal permits and certificates, changes to system design which could involve an environmental impact, and changes to the Environmental Technical Specifications (ETS).

- The results of environmental monitoring required by Section 1.1.1 A, "Fish Kill Monitoring Program," are reported to the NRC in accordance with the Oyster Creek Reportability Reference Manual and 10 CFR 50.72.
- Section 2.1 of the ETSS, "Unusual or Important Environmental Events" requires Oyster Creek Nuclear Generating Station to notify the NRC in accordance with Section 3.5.2 of the ETS, "Non-Routine Environmental Operating Reports."
- Environmental non-compliances are reported as required by 10 CFR 50.72, "Immediate notification requirements for operating nuclear power reactors," and corrective actions will be included in the Exelon/AmerGen Corrective Action Program (CAP).
- Changes to the state and federal permits and certificates are reported in accordance with Section 3.5.3.C of this ETSS.
- Changes in the station design or operation, tests, and experiments involving potentially significant unreviewed environmental questions are addressed by the EGC [Exelon Generating Company] and AmerGen implementing procedures associated with 10CFR 50.59, "Changes, tests and experiments." For activities that involve a change to the Environmental Protection Program, the [10 CFR] 50.59 Applicability Review Form and the Exelon/AmerGen [10 CFR] 50.59 Resource Manual refer to EGC/AmerGen Environmental Evaluation procedure. When the environmental evaluation indicates that such an activity involves an unreviewed environmental question, a written evaluation is required to be submitted to the NRC and approval must be obtained prior to implementation. When such an activity involves a change to the ETS, a license amendment shall be submitted to the NRC in accordance with 10 CFR 50.90.
- Changes to the ETSS are documented by 10 CFR 50.90, "Application for amendment of license or construction permit".

All the requirements for the annual report are addressed in 10 CFR 50.72, 10 CFR 72.75, the EGC and AmerGen 10 CFR 50.59 Review Program, or the Environmental Evaluation Program. Therefore, Section 3.5.1 may be deleted in its entirety.

The NRC staff reviewed the licensee's justification to delete this section in its entirety. The NRC staff agrees that environmental monitoring programs are either done, or are monitored by cognizant State agency(ies). As explained above, all the reporting requirements specified by this section are also specified by NRC regulations or other sections of the ETS. Accordingly, deleting the requirement for the annual environmental operating report will lead to no substantive impact on reporting requirements incumbent upon the licensee. The NRC staff, therefore, agrees that this section can be deleted in its entirety.

Section 3.5.2, "Non-Routine Environmental Operating Reports"

This section requires that a prompt report be submitted to the NRC in the event that an unusual or important environmental event occurs. Such an occurrence will be reported within 24 hours to the NRC followed by a written report within 30 days. The licensee proposed to add a sentence to state that if an event is reportable under 10 CFR 50.72, then a duplicate immediate report is not required. However, the follow-up written report is still required. In addition, the licensee also proposed to delete options for telephone, telegraph and facsimile transmission and to correct notification to be made to the NRC instead of the NRC Document Control Desk.

The NRC staff agrees that the change is a clarification to avoid potential duplicate reporting requirements, recognizing that at the time the OCNES ETS was developed, there was no environmental reporting requirement in 10 CFR 50.72. Accordingly, duplicate reporting was then not an issue. The other proposed changes are administrative in nature, and have no impact on the contents or submittal schedule of the reports. Therefore, the NRC staff found the proposed changes acceptable.

Section 3.5.3, "Change in Environmental Technical Specifications"

The licensee proposed to revise the last sentence of Subsection A to read "The report shall include a description and evaluation of the changes and a supporting justification." As a result, the term "benefit-cost analysis" would be replaced with "justification" for any proposed change in plant design, in plant operation, or in procedures involved in carrying out the ETS. The proposed change represents a change in an administrative station requirement and the use of a justification allows for additional flexibility in analyzing changes impacting the ETSs (i.e., the justification may include a benefit-cost analysis if deemed appropriate by station management). NRC regulations do not specifically require a cost benefit analysis to be included in such reports. Accordingly, the NRC staff found the proposed change acceptable.

The licensee proposed to delete the current requirement in Subsection B to submit the proposed ETS change to the Director of the Office of Nuclear Reactor Regulation for review and authorization, and replace such requirement with the phrase "in accordance with 10 CFR 50.90." This regulation is regarding requirements for submittal of TS changes. The NRC staff found that a direct reference to the subject regulation accurately captures NRC requirements, and is acceptable.

Currently, Subsection C requires that changes and additions to the National Pollutant Discharge Elimination System (NPDES) permit or the State certification shall be reported to the NRC. This paragraph also requires that a proposed revision be sent to the NRC at the same time as it is submitted to the authorizing agency. However, the NRC relies on the State regulatory agency to regulate these matters. In light of this, the licensee proposed to change this subsection such that proposed changes will no longer be provided to the NRC. Rather, changes to the NPDES permit or State certification will be provided to the NRC within 30 days of approval by the permitting agency. The licensee also proposed to delete the informational paragraph of Subsection C which states that "the NRC will consult with the authorizing agency to determine appropriate actions" for changes to permits and certificates which have been identified to have severe environmental impact. The licensee stated that information related to

environmental permits will continue to be available onsite for NRC review.

The NRC staff does not have a role in determining the NPDES limits for the nuclear plants. This responsibility lies with the appropriate NPDES permitting authority. Therefore, requiring the licensees to submit proposed NPDES permit changes is of little value to the NRC staff. The paragraph that will remain in the OCNGS ETS will still require the licensees to provide the NRC staff with copies of the approved revised permits. This requirement will allow the NRC staff to remain cognizant of those environmental impacts of plant operations related to the permits. In addition, the OCNGS ETS will continue to require the licensee to evaluate plant changes for unreviewed environmental questions. This requirement ensures that significant changes to the environmental impacts of plant operation will receive an NRC staff review that is independent of the NPDES review by the permitting authority. While the NRC staff will have no role in setting the limits in the NPDES permit, the NRC staff will consider other impacts (e.g., to threatened and endangered aquatic species) that may not be included in the NPDES review. Based on this consideration, the staff concludes that the proposed changes to Subsection C are acceptable.

Section 3.6, "Records Retention"

The licensee proposed to revise the requirement of log retention time frame for (1) records and drawings detailing systems and equipment design changes, and (2) records of all environmental surveillance data from "the life of the plant" to "until the date of termination of the Operating License." The licensee also proposed to delete the administrative requirement to maintain logs, while maintaining the requirement to maintain all records. The licensee stated that there are no dedicated environmental logs maintained on site. Logs relative to the environment are required to be documented by specific State permits (i.e., NPDES Permit), and Exelon/AmerGen environmental administrative procedures.

The proposed change regarding the types of records retained simplifies the ETS by requiring the retention of records associated with the ETS. The existing reference to data and logs refers to information that would have been collected under the now-completed monitoring programs. The change to the stated retention period makes the requirement consistent with other similar requirements in the NRC regulations (e.g., 10 CFR 50.59, "Changes, tests, and experiments"). The NRC staff concludes that the changes are acceptable.

4.0 STATE CONSULTATION

In accordance with the Commission's regulations, the New Jersey State official was notified of the proposed issuance of the amendment. The State official had no comments.

5.0 ENVIRONMENTAL CONSIDERATION

The amendment changes requirements with respect to record keeping, reporting, or administrative procedures or requirements with respect to the the OCNGS ETS. Accordingly, the amendment meets 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 amendment.

The Commission has previously issued a proposed finding that the amendment involves no significant hazards consideration and there has been no public comment on such finding (70 FR 19113).

6.0 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 amendment will not be inimical to the common defense and security or to the health and safety of the public.

Principal Contributor: A. Kugler, C. Guerrero and P. Tam

Date: January 4, 2006

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