

February 22, 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: DELETION OF REPORTING REQUIREMENT IN FACILITY
OPERATING LICENSE (TAC NO. MC6255)

Dear Mr. Crane:

The Commission has issued the enclosed Amendment No. 258 to Facility Operating License No. DPR-16 for the Oyster Creek Nuclear Generating Station, in response to your application dated February 25, 2005.

The amendment deletes the reporting requirement in the Facility Operating License related to reporting violations of Section 2.C of the operating license.

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/

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

Docket No. 50-219

Enclosures:

1. Amendment No. 258 to DPR-16
2. Safety Evaluation

cc w/encls: See next page

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OFFICE	CLIIP LPM	NRR/LPLI-2/PM	NRR/LPLI-2/LA	NRR/LPLI-2/BC
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DATE	1/24/06	2/06/06	2/17/06	2/21/06

Official Record Copy

AMERGEN ENERGY COMPANY, LLC

DOCKET NO. 50-219

OYSTER CREEK NUCLEAR GENERATING STATION

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 258
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 February 25, 2005, 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 Facility Operating License is amended by deletion of paragraph 2.E as indicated in the attachment to this license amendment.
3. This license amendment is effective as of the date of its issuance and shall be implemented within 60 days of the date of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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

Attachment:
Changes to the Facility Operating License

Date of Issuance: February 22, 2006

ATTACHMENT TO LICENSE AMENDMENT NO. 258

FACILITY OPERATING LICENSE NO. DPR-16

DOCKET NO. 50-219

Replace the following page of the Facility Operating License with the attached page. The revised page is identified by amendment number and contains marginal lines indicating the areas of change.

Remove
5

Insert
5

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
RELATED TO AMENDMENT NO. 258
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 February 25, 2005, AmerGen Energy Company, LLC, (AmerGen or the licensee) requested changes to the Facility Operating License for the Oyster Creek Nuclear Generating Station (Oyster Creek) (Agencywide Documents Access and Management System (ADAMS) Accession No. ML050600047). The proposed amendment would delete Section 2.E of the Facility Operating License that requires reporting violations of the requirements in Section 2.C of the Facility Operating License. A notice announcing the availability of this proposed change using the consolidated line item improvement process (CLIP) was published in the *Federal Register* on November 4, 2005 (70 FR 67202). The licensee's application was used during the development of the CLIP notice and is being evaluated using that process even though the application predates the notice of availability.

2.0 REGULATORY EVALUATION

A section or condition was included in the facility operating licenses issued to some nuclear power plants requiring the licensee to make reports to the Nuclear Regulatory Commission (NRC or the Commission) regarding violations of other sections of the operating license (typically Section 2.C). A typical license condition reads as follows:¹

Except as otherwise provided in this license and its appendices, the Licensee shall report any violations of the requirements contained in Section 2.C of this license in the following manner: initial notification shall be made within 24 hours to the NRC Operations Center via the Emergency Notification System with written followup within thirty days in accordance with the procedures described in [Title 10 of the *Code of Federal Regulations*] 10 CFR 50.73 (licensee event report system).

¹ The condition (2.E) in the Facility Operating License for Oyster Creek is similar to the standard language.

In addition to the information provided to support licensing decisions, the NRC obtains information about plant operation, licensee programs, and other matters using a combination of inspections and reporting requirements. Routine or scheduled reports that are required to be submitted to the NRC are defined in the related regulations, specific license condition, technical specification, or an NRC-approved program document. The reporting of emergencies, unplanned events or conditions, and other special cases may also be addressed within such documents by the inclusion of reporting thresholds, and are also the focus of the reporting requirements in 10 CFR 50.72, "Immediate notification requirements for operating nuclear power reactors," and 10 CFR 50.73, "Licensee event report system." Changes to the reporting regulations in 10 CFR Sections 50.72 and 50.73 became effective in January 2001 (see *Federal Register* notice on October 25, 2000 (65 FR 63769)) and included extending the allowable reporting times for licensee event reports (LERs) from 30 days to 60 days.

3.0 TECHNICAL EVALUATION

The specific section (2.E) in the Oyster Creek Facility Operating License requires the licensee to report any violations of the requirements of Section 2.C of the Facility Operating License and defines the method and allowable time periods for such reports. The reporting threshold (i.e., a violation) for some of the conditions included in Section 2.C of the Facility Operating Licenses duplicates those defined in 10 CFR 50.72 and 10 CFR 50.73. However, the requirements in the Facility Operating License may have different deadlines than those defined in the regulations (following a rule change in 2001). This difference in reporting requirements has led to variations in reporting since many Facility Operating Licenses do not contain the subject condition. For those licensees with a 30-day reporting requirement in the Facility Operating License, the condition has decreased the benefits of the rulemaking. For those cases where the current Facility Operating License requirement to report violations is also reportable in accordance with the regulations defined in 10 CFR 50.72 and 10 CFR 50.73, the NRC staff finds that the regulations adequately address this issue and the elimination of the duplicative requirement in the Oyster Creek Facility Operating License is acceptable.

Some of the conditions addressed in Section 2.C of the Facility Operating License may address the maintenance of particular programs, administrative requirements, or other matters where a violation of the requirement would not result in a report to the NRC in accordance with 10 CFR 50.72 or 10 CFR 50.73. In most cases, there are requirements for reports to the NRC related to these conditions in other regulations, the specific license condition or technical specification, or an NRC-approved program document. In other cases, there are reports to other agencies or news releases that would prompt a report to the NRC (in accordance with 10 CFR 50.72(b)(2)(xi)). The NRC staff also assessed violations of administrative requirements that could be reportable under the current License Condition but that may not have a duplicative requirement in a regulation or other regulatory requirement. The NRC staff finds that the requirements to report such problems within 24 hours with written reports to follow using the LER process is not needed. The NRC staff is confident that the information related to such violations that is actually important to the NRC's regulatory functions would come to light in a time frame comparable to the 60-day LER requirements. The information would become available to the appropriate NRC staff through the inspection program, updates to program documents, resultant licensing actions, public announcements, or some other reliable mechanism.

The NRC staff finds that the elimination of Section 2.E in the Oyster Creek Facility Operating

License will not result in a loss of information to the NRC that would adversely affect either its goal to protect public health and safety, or its ability to carry out its various other regulatory responsibilities.

4.0 STATE CONSULTATION

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

5.0 ENVIRONMENTAL CONSIDERATION

The amendment changes recordkeeping, reporting, or administrative procedures or requirements. 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.

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 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: February 22, 2006

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