

AmerGen

An Exelon Company

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, AND
AMERGEN ENERGY COMPANY LLC
REGARDING THE COASTAL ZONE MANAGEMENT ACT REVIEW
FOR RENEWING THE OPERATING LICENSE FOR
THE OYSTER CREEK NUCLEAR GENERATING STATION**

PURPOSE

The New Jersey Department of Environmental Protection (NJDEP), and AmerGen Energy Company LLC (AmerGen) (collectively, the parties) hereby enter into this memorandum of understanding (MOU) concerning an application filed with the Nuclear Regulatory Commission (NRC) by AmerGen, seeking to renew the operating license for its Oyster Creek Nuclear Generating Station located within the coastal zone of the State of New Jersey.

STATEMENT OF FACTS

The parties agree to the following facts:

1. On January 21, 2005, AmerGen submitted to NJDEP a consistency certification under the Coastal Zone Management Act (CZMA) federal consistency provision (16 U.S.C. § 1456(c)(3)(A)) and National Oceanic and Atmospheric Administration's (NOAA's) regulations (15 C.F.R. part 930, subpart D);
2. On August 19, 2005, NJDEP objected to AmerGen's CZMA consistency certification based upon a lack of information. AmerGen must file its notice of appeal of NJDEP's August 19, 2005, objection with the Secretary by September 19, 2005;
3. Pursuant to the recently enacted Energy Policy Act of 2005 (Pub. L. No. 109-58), the Secretary of Commerce (Secretary) must use NRC's and NJDEP's decision records as the initial record to decide AmerGen's CZMA appeal. At the present time, NRC is in the initial stages of reviewing AmerGen's application to renew its operating license, and will be gathering additional technical and environmental information as part of its review that will be included as part of the record of its decision;
4. Under 15 C.F.R. § 930.51(f), federal consistency applies only to active applications. AmerGen filed its consistency certification six months before filing its application to renew its operating license with NRC on July 22, 2005; and

5. Under 16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. § 930.57(a), an applicant provides in the application to the federal licensing agency a consistency certification. This does not require the applicant to provide a consistency certification at the time the application is submitted; rather, the applicant (in this case AmerGen) provides the consistency certification when the applicant has the necessary data and information required by the CZMA and NOAA's regulations and at an appropriate time during the federal licensing agency's process (in this case NRC's process).

AGREEMENTS

Based upon the above statement of facts, the parties agree to the following:

1. AmerGen hereby withdraws its consistency certification, dated January 21, 2005, from NJDEP's consideration;
2. NJDEP hereby withdraws its consistency objection, dated August 19, 2005. NJDEP believes it will need the information described in NJDEP's August 19 objection letter, to respond to any consistency certification resubmitted by AmerGen under paragraph 3, below. AmerGen expresses no opinion regarding NJDEP's need for the information;
3. AmerGen shall resubmit to NJDEP its CZMA consistency certification and necessary data and information, pursuant to 15 C.F.R. part 930, subpart D, at an appropriate time during the NRC's review process;
4. Once NJDEP receives AmerGen's consistency certification and necessary data and information under paragraph 3 pursuant to 16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. part 930, subpart D, NJDEP's six-month review period shall begin;
5. If NJDEP objects to AmerGen's resubmitted consistency certification, AmerGen may file an appeal with the Secretary within the time frames established by NOAA's CZMA regulations;
6. The CZMA review prompted by AmerGen's consistency certification dated January 21, 2005, is hereby superseded by any subsequent review that shall occur once AmerGen resubmits its consistency certification as envisioned in paragraph 3. NJDEP and AmerGen shall retain all rights under the CZMA relative to this subsequent consistency certification; and
7. This MOU may be executed in counterparts.

**SIGNATURES FOR MOU BETWEEN NJDEP AND AMERGEN REGARDING THE
CZMA REVIEW FOR RENEWING THE OPERATING LICENSE FOR THE OYSTER
CREEK NUCLEAR GENERATING STATION**

For NJDEP
Mark Mauriello
Director, Land Use Regulation Program

Date

For AmerGen
Pam Cowan
Director, Licensing and Regulatory Affairs
AmerGen Energy Company LLC

Date

STATEMENT BY NOAA:

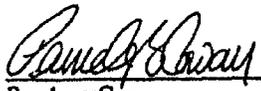
While NOAA is not a party to this MOU, it has no objections to its terms. Since both AmerGen's consistency certification and NJDEP's objection have been withdrawn, that proceeding has terminated. If a new consistency certification is submitted by AmerGen, and NJDEP issues an objection, the CZMA and NOAA regulations would allow AmerGen to file an appeal with the Secretary in that new proceeding.


for Joe La Bissonniere
Assistant General Counsel
NOAA Office of General Council for Ocean Services

9/19/05
Date

**SIGNATURES FOR MOU BETWEEN NJDEP AND AMERGEN REGARDING THE
CZMA REVIEW FOR RENEWING THE OPERATING LICENSE FOR THE OYSTER
CREEK NUCLEAR GENERATING STATION**

For NJDEP Date
Mark Mauriello
Director, Land Use Regulation Program



For AmerGen Date
Pam Cowan
Director, Licensing and Regulatory Affairs
AmerGen Energy Company LLC

STATEMENT BY NOAA:

While NOAA is not a party to this MOU, it has no objections to its terms. Since both AmerGen's consistency certification and NJDEP's objection have been withdrawn, that proceeding has terminated. If a new consistency certification is submitted by AmerGen, and NJDEP issues an objection, the CZMA and NOAA regulations would allow AmerGen to file an appeal with the Secretary in that new proceeding.



For Joel La Bissonniere Date
Assistant General Counsel
NOAA Office of General Council for Ocean Services