

AmerGen Energy Company, LLC  
Route 9 South  
Forked River, NJ 08731

An Exelon Company

2130-06-20425  
December 1, 2006

U.S. Nuclear Regulatory Commission  
Attention: Document Control Desk  
Washington, DC 20555-0001

State of New Jersey Department of Environmental Protection  
Attention: Andrew Heyl, Supervisor  
Bureau of Coastal Regulation  
501 East State Street  
Trenton, NJ 08625-0439

Re: Oyster Creek Generating Station  
Facility Operating License No. DPR-16  
NRC Docket No. 50-219

Federal Consistency Certification for Oyster Creek Generating Station License  
Renewal Application

Ladies and Gentlemen:

This letter provides the certification of AmerGen Energy Company, LLC (AmerGen) to the U.S. Nuclear Regulatory Commission (NRC) and the State of New Jersey Department of Environmental Protection (NJDEP) that the proposed renewal of the NRC Operating License for the Oyster Creek Generating Station (OCGS) in Lacey Township, NJ, complies with the enforceable policies of the New Jersey Coastal Management Program, and that continued operation of OCGS will be conducted in a manner consistent with that Program. AmerGen requests that the State indicate its concurrence with the Certification.

The Certification includes a set of findings relating the coastal effects of continued operation of OCGS to the relevant policies and enforceable rules of the New Jersey Coastal Zone Management Program. Attachment 1 to the Certification reproduces each Program policy and rule and explains the basis for AmerGen's conclusion that renewal of the OCGS Operating License will comply, or that a particular policy or rule does not apply to the proposed license renewal. This includes a description of the application of the Basic Coastal Policies and the Basic Location Rule, which collectively require an assessment of the public interest. The assessment shows that renewal of the OCGS operating license is clearly in the public interest for many important reasons, including: maintaining an essential source of electricity generation within New Jersey vital to the welfare of all New Jersey; maintaining a substantial number of jobs for skilled workers; and providing a clean source of energy that does not generate carbon dioxide, nitrogen oxides, sulfur oxides and other contaminants that would be generated by the fossil fueled plants that would be required if this license is not renewed.

AmerGen has diligently sought to identify every provision of the New Jersey Coastal Zone Management Rules that could apply to the license renewal so that our certification of compliance provides the State with complete information. Since our initial letter<sup>1</sup> to the State, the National Oceanic and Atmospheric Administration (NOAA) has revised the rules for the CZMA certification process. So to ensure we provide all the required information, and pursuant to the new NOAA rules, AmerGen has communicated often with the State to determine as best we can, all information the State deems necessary for a CZMA Certification. AmerGen submitted a detailed "Checklist of Information To Be Submitted," on August 15, 2006, and the State's Bureau of Coastal Zone Management responded on September 15, 2006, agreeing that the Checklist covers the pertinent State rules.

NOAA first approved the NJDEP Coastal Zone Management Program (CZMP) in 1978, followed by another approval of some additional program elements in 1980. It is our understanding that since 1980, there have been further additions to the State's CZMP. While the required CZMA consistency review is limited to the State's NOAA-approved program, AmerGen is certifying its consistency with all provisions of the current NJ CZMP that would be applicable if they had been approved by NOAA, not just those that have been officially approved by NOAA. In short, the Checklist of provisions of the NJ CZMP that AmerGen has submitted to NJDEP that both NJDEP and AmerGen have cooperatively agreed to consider applicable for the consistency certification, includes requirements that may go beyond what the CZMA requires an applicant in AmerGen's position to certify.

AmerGen is providing to the Department associated data and information, including a copy of AmerGen's application to the NRC, the supporting material AmerGen provided to the NRC, information specifically identified as required in the New Jersey Coastal Zone Management Rules, and other information requested by representatives of the Department in the course of the extensive interactions between the Department and AmerGen since first meeting on February 17, 2004, to discuss the license renewal process for OGCS.

In addition, on June 1, 2006, the Department provided AmerGen "State Guidance for Forthcoming Federal Consistency Request for License Renewal of AmerGen's Oyster Creek Nuclear Generating Station" (Guidance). The Guidance identifies sections of the State's Coastal Zone Management Rules (Rules) that the Department determined to be applicable to renewal of the OGCS Operating License based on the information then available to it, provided specific questions to be addressed by AmerGen, and cautioned that AmerGen should review the identified Rules in their entirety to assure a complete and appropriate discussion of the degree of OGCS compliance with each Rule's criteria. In addition, the Guidance states that "although not included in the Department's list, both the eight (8) Basic Coastal Policies (N.J.A.C. 7:7-1.5(a)) and the Basic Location Rule (N.J.A.C. 7:7E-6.2) may be utilized in the decision making process. Finally, the Guidance states that it is not to be construed as a final list of Rules or issues that may need to be discussed by AmerGen. Thus, this Consistency Certification, and its

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AmerGen submitted a CZMA Consistency Certification in 2005 that was premature because the Renewal Application to the NRC had not yet been submitted, and the Department identified certain information that AmerGen had failed to provide. AmerGen and NJDEP mutually agreed to have the entire CZMA Certification Process begin anew, as set forth in a Memorandum of Understanding between NJDEP and AmerGen regarding the CZMA Review for Renewing the Operating License for the Oyster Creek Generating Station, September 2005. AmerGen is providing with this consistency determination the information previously identified as missing. Examples of such information include: a commitment to provide public access to the waterfront through the Finninger Farm; a copy of the Biological Opinion of the National Marine Fisheries Service concerning the impacts of OGCS operations on sea turtles; and a copy of the application and supporting material submitted to the NRC.

supporting Attachments, specifically addresses compliance with each of the Rules cited in the Guidance, responds to the questions provided, addresses compliance with Rules or aspects of Rules not specifically discussed in the Guidance, and discusses application of the eight Basic Coastal Policies and the Basic Location Rule.

In this transmittal, AmerGen is making two non-regulatory (i.e., not to the NRC) commitments to the State of New Jersey that pertain to 1) providing for public open space, and 2) working with NJDEP to split ground water samples and reporting the analytical results of AmerGen's sampling in an attachment to its annual Radiological Environmental Monitoring Program (REMP) report. Additional details regarding these commitments are provided in Attachment A of the Enclosure.

The license renewal application includes, as Appendix E, an Environmental Report that contains a detailed description of the proposed action and the affected environment, and an analysis of environmental consequences of the proposed action and mitigating actions. The Environmental Report also includes a list of licenses, permits, and other approvals from Federal, State, and local authorities for current OCGS operations, and approvals and consultations that are required for the extended period of operations. A summary of this information also is provided in the enclosed Consistency Certification.

As discussed above, AmerGen is furnishing a copy of the Certification to the Department, along with associated information and data.

AmerGen requests the Department, after reviewing the Consistency Certification, to provide AmerGen with a letter concurring with the enclosed Federal Consistency Certification for Renewal of the OCGS Operating License. Because of the frequent communications between AmerGen and the Department about this Certification and its contents, we are hopeful that the State will not object. Indeed, we hope the Department will concur with this Consistency Certification in less than the full six months provided for State review in the NOAA regulations. In any event, given these extensive communications between AmerGen and the Department for almost two years about the contents of this Certification, and the comprehensive checklist of necessary information the State agreed upon with us months before we submitted this Certification, we do not anticipate the need to grant any extensions for the Department to complete its review of this Certification.

Please call Bill Maher at (610) 765-5939 if you have any questions or require any additional information to review the attached certification.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy Rausch', with a stylized flourish at the end.

Timothy Rausch  
Site Vice President  
Oyster Creek Generating Station  
AmerGen Energy Company, LLC

Enclosure: Federal Consistency Certification: Coastal Zone Management Act of 1972  
(CZMA)

cc: Ruth Ehinger, NJDEP (w/Enclosure, Attachment A)  
Michael Masnik, USNRC (w/Enclosure, Attachment A)  
Karen Tuccillo, NJDEP BNE (w/Enclosure, Attachment A)  
Peter Tam, Senior Project Manager, USNRC NRR (w/Enclosure, Attachment A)