



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 23, 2017

Mr. Bryan C. Hanson
Senior Vice President
Exelon Generation Company, LLC
President and Chief Nuclear Officer
Exelon Nuclear
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: OYSTER CREEK NUCLEAR GENERATING STATION - ISSUANCE OF
AMENDMENT RE: DELETION OF FACILITY OPERATING LICENSE
CONDITIONS RELATED TO DECOMMISSIONING TRUST PROVISIONS
(CAC NO. MF9293)

Dear Mr. Hanson:

The U.S. Nuclear Regulatory Commission has issued the enclosed Amendment No. 291 to Renewed Facility Operating License No. DPR-16 for the Oyster Creek Nuclear Generating Station (Oyster Creek), in response to your application dated February 20, 2017.

The amendment deletes from the Oyster Creek facility operating license certain license conditions which impose specific requirements on the decommissioning trust fund agreement. The provisions of Title 10 of the *Code of Federal Regulations* Section 50.75(h) that specify the regulatory requirements for decommissioning trust funds will apply to Oyster Creek.

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/

John G. Lamb, Senior Project Manager
Special Projects and Process Branch
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-219

Enclosures:

1. Amendment No. 291 to Renewed DPR-16
2. Safety Evaluation

cc: Listserv



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
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EXELON GENERATION COMPANY, LLC

DOCKET NO. 50-219

OYSTER CREEK NUCLEAR GENERATING STATION

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 291
Renewed License No. DPR-16

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by Exelon Generation Company, LLC (the licensee), dated February 20, 2017, 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 Technical Specifications as indicated in the attachment to this license amendment, and paragraph 3.F through 3.K of Renewed Facility Operating License No. DPR-16 are hereby amended to read as follows:

F. Deleted

G. Deleted

H. Deleted

I. Deleted

J. Deleted

K. Deleted

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/ Eva Brown for/

Douglas A. Broaddus, Chief
Special Projects and Process Branch
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Attachment:
Changes to the Renewed Facility
Operating License No. DPR-16

Date of Issuance: June 23, 2017

ATTACHMENT TO LICENSE AMENDMENT NO. 291
OYSTER CREEK NUCLEAR GENERATING STATION
RENEWED FACILITY OPERATING LICENSE NO. DPR-16
DOCKET NO. 50-219

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

Renewed Facility Operating License No. DPR-16

REMOVE

-8-
-9-

INSERT

-8-
-9-

These exemptions granted pursuant to 10 CFR 50.12 are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. With these exemptions, the facility will operate, to the extent authorized herein, in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

- E. Deleted
 - F. The licensee shall have and maintain financial protection of such type and in such amounts as the Commission shall require in accordance with Section 170 of the Atomic Energy Act of 1954, as amended, to cover public liability claims.
3. Sale and License Transfer Conditions:
- A. Deleted.
 - B. Deleted.
 - C. Deleted.
 - D. Deleted
 - E. Deleted
 - F. Deleted |
 - G. Deleted |
 - H. Deleted |
 - I. Deleted |
 - J. Deleted |

- K. Deleted
 - L. DELETED
 - M. At the time of the closing of the transfer of Oyster Creek, and the respective license from AmerGen Energy Company, LLC (AmerGen) to Exelon Generation Company, AmerGen shall transfer to Exelon Generation Company ownership and control of AmerGen Oyster Creek NQF, LLC, and AmerGen Consolidation, LLC shall be merged into Exelon Generation Consolidation, LLC. Also at the time of the closing, decommissioning funding assurance provided by Exelon Generation Company, using an additional method allowed under 10 CFR 50.75 if necessary, must be equal to or greater than the minimum amount calculated on that date pursuant to, and required by 10 CFR 50.75 for Oyster Creek. Furthermore, funds dedicated for Oyster Creek prior to closing shall remain dedicated to Oyster Creek following the closing. The name of AmerGen Oyster Creek NQF, LLC shall be changed to Exelon Generation Oyster Creek NQF, LLC at the time of the closing.
4. This license is effective as of the date of issuance and shall expire at midnight on April 9, 2029.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Bruce S. Mallett
Deputy Executive Director for Reactor
and Preparedness Programs
Office of the Executive Director for Operations

Attachment:
Appendices A and B -
Technical Specifications

Date of Issuance: April 8, 2009



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO AMENDMENT NO. 291 TO RENEWED

FACILITY OPERATING LICENSE NO. DPR-16

EXELON GENERATION COMPANY, LLC

OYSTER CREEK NUCLEAR GENERATING STATION

DOCKET NO. 50-219

1.0 INTRODUCTION

By application dated February 20, 2017 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML17051A003), Exelon Generation Company, LLC (Exelon or the licensee), requested changes to the Renewed Facility Operating License (FOL) No. DPR-16 for the Oyster Creek Nuclear Generating Station (Oyster Creek). Exelon requested U.S. Nuclear Regulatory Commission (NRC) approval of an amendment to delete from the Oyster Creek FOL certain license conditions which impose specific requirements on the decommissioning trust fund agreement. Once the decommissioning trust provisions are deleted from the Oyster Creek FOL, the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.75(h) that specify the regulatory requirements for decommissioning trust funds will apply to Oyster Creek.

2.0 REGULATORY EVALUATION

On December 24, 2002, the NRC issued a final rule promulgating new regulatory provisions at 10 CFR 50.75(h)(1)-(4) that govern financial assurance mechanisms for licensees that are not "electric utilities."¹ The provisions in 10 CFR 50.75(h)(1)-(3) include substantially similar decommissioning trust agreement requirements as those found in the Oyster Creek operating license conditions. The NRC established these requirements stating that, "the NRC has always believed that it is preferable and more efficient to adopt standard rules, as opposed to applying specific license conditions on a case-by-case basis." Decommissioning Trust Provisions, Final Rule, 67 Fed. Reg. 78,332, 78,334 (Dec. 24, 2001). In the rulemaking, the NRC also addressed several comments regarding potential conflicts or inconsistencies between the provisions of 10 CFR 50.75(h)(1)-(3) and a licensee's existing decommissioning trust agreement-related license conditions. The NRC explained that, "licensees will have the option of maintaining their existing license conditions or submitting to the new requirements" and "will be able to decide for themselves

¹ The term "electric utility" is defined in 10 CFR 50.2, "Definitions," as: "any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities, including generation or distribution subsidiaries, public utility districts, municipalities, rural electric cooperatives, and State and Federal agencies, including associations of any of the foregoing, are included within the meaning of 'electric utility.'"

After the promulgation of 10 CFR 50.75(h)(1)-(4), the NRC received a comment that the rule language did not sufficiently reflect the NRC's intent that individual licensees should have the option of retaining their existing license conditions. In response, on November 20, 2003, the NRC promulgated 10 CFR 50.75(h)(5), which provided, explicitly, that licensees could either maintain their existing facility-specific decommissioning trust agreement license conditions or eliminate them in favor of complying with the generic decommissioning trust agreement regulatory requirements. Changes to Decommissioning Trust Fund Provisions, Direct final rule, 68 Fed. Reg. 65,386 (Nov. 20, 2003). Specifically, 10 CFR 50.75(h)(5) states:

The provisions of paragraphs (h)(1) through (h)(3) of this section do not apply to any licensee that as of December 24, 2003, has existing license conditions relating to decommissioning trust agreements, so long as the licensee does not elect to amend those license conditions. If a licensee with existing license conditions relating to decommissioning trust agreements elects to amend those conditions, the license amendment shall be in accordance with the provisions of paragraph (h) of this section.

Oyster Creek retained its original license conditions and now seeks to amend its license to delete those license conditions in favor of the regulatory provisions in 10 CFR 50.75(h)(1)-(3).

3.0 TECHNICAL EVALUATION

3.1 Existing FOL License Conditions Related to Decommissioning Trust Provisions

The Oyster Creek FOL has the following license conditions related to decommissioning trust provisions in paragraph 3:

- F. The decommissioning trust agreement for Oyster Creek must be in a form acceptable to the NRC.
- G. With respect to the decommissioning trust fund, investments in the securities or other obligations of Exelon Corporation, Exelon Generation Company, or their affiliates, successors, or assigns shall be prohibited. Except for investments tied to market indexes or other nonnuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
- H. The decommissioning trust agreement for Oyster Creek must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first given the NRC 30-days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation.
- I. The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30-days prior written notification to the Director, Office of Nuclear Reactor Regulation.
- J. The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the

investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

- K. Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the Oyster Creek license and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting such Order.

3.2 Proposed Changes to the FOL

Exelon proposed to replace the current Oyster Creek FOL license conditions 3.F through 3.K with "Deleted."

3.3 NRC Staff Technical Evaluation

License Condition 3.F

Exelon proposed to delete Oyster Creek license condition 3.F, which states:

- F. The decommissioning trust agreement for Oyster Creek must be in a form acceptable to the NRC.

The NRC staff finds that license condition 3.F is related to decommissioning trust agreements, that it is implicit in the regulations in 10 CFR 50.75(e) and (h) and, thus its deletion would result in the licensee instead being governed by the applicable provisions of 10 CFR 50.75(h), consistent with 10 CFR 50.75(h)(5).

License Condition 3.G

Exelon proposed to delete Oyster Creek license condition 3.G, which states:

- G. With respect to the decommissioning trust fund, investments in the securities or other obligations of Exelon Corporation, Exelon Generation Company, or their affiliates, successors, or assigns shall be prohibited. Except for investments tied to market indexes or other nonnuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

This license condition is addressed in the Commission's regulations at 10 CFR 50.75(h)(1)(A) (Decommissioning Trust Final Rule, 67 FR 78336; December 24, 2002). Based on this information, the NRC staff finds that license condition 3.G is related to decommissioning trust agreements and, thus its deletion would result in the licensee instead being governed by the applicable provisions of 10 CFR 50.75(h), consistent with 10 CFR 50.75(h)(5).

License Condition 3.H

Exelon proposed to delete Oyster Creek license condition 3.H, which states:

- H. The decommissioning trust agreement for Oyster Creek must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first given the NRC 30-days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation.

This license condition is addressed in the Commission's regulations at 10 CFR 50.75(h)(1)(iv) (Decommissioning Trust Final Rule, 67 FR 78336; December 24, 2002). Based on this information, the NRC staff finds that license condition 3.H is related to decommissioning trust agreements and, thus its deletion would result in the licensee instead being governed by the applicable provisions of 10 CFR 50.75(h), consistent with 10 CFR 50.75(h)(5).

License Condition 3.I

Exelon proposed to delete Oyster Creek license condition 3.I, which states:

- I. The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30-days prior written notification to the Director, Office of Nuclear Reactor Regulation.

This license condition is addressed in the Commission's regulations at 10 CFR 50.75(h)(1)(iii) (Decommissioning Trust Final Rule, 67 FR 78336; December 24, 2002). Based on this information, the NRC staff finds that license condition 3.I is related to decommissioning trust agreements and, thus its deletion would result in the licensee instead being governed by the applicable provisions of 10 CFR 50.75(h), consistent with 10 CFR 50.75(h)(5).

License Condition 3.J

Exelon proposed to delete Oyster Creek license condition 3.J, which states:

- J. The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.

This license condition is addressed in the Commission's regulations at 10 CFR 50.75(h)(1)(i)(B) (Decommissioning Trust Final Rule, 67 FR 78336; December 24, 2002). Based on this information, the NRC staff finds that license condition 3.J is related to decommissioning trust agreements and, thus its deletion would result in the licensee instead being governed by the applicable provisions of 10 CFR 50.75(h), consistent with 10 CFR 50.75(h)(5).

License Condition 3.K

Exelon proposed to delete Oyster Creek license condition 3.K, which states:

- K. Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the Oyster Creek license and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting such Order.

This license condition is addressed in the Commission's regulations at 10 CFR 50.75(h)(1)(i)(B) (Decommissioning Trust Final Rule, 67 FR 78336; December 24, 2002). Based on this information, the NRC staff finds that license condition 3.K is related to decommissioning trust agreements and, thus its deletion would result in the licensee instead being governed by the applicable provisions of 10 CFR 50.75(h), consistent with 10 CFR 50.75(h)(5).

3.4 NRC Staff Technical Conclusion

The Oyster Creek FOL license conditions 3.F through 3.K relating to decommissioning trust agreements existed prior to December 24, 2003; therefore, the provisions of paragraphs 10 CFR 50.75(h)(1) through (h)(3) did not apply to Oyster Creek. Oyster Creek has elected to delete FOL license conditions 3.F through 3.K, and therefore, it will be governed by the applicable provisions of 50.75(h). In accordance with 10 CFR 50.75(h)(5), the license amendment shall be in accordance with the provisions of paragraph (h) of 10 CFR 50.75. Oyster Creek shall meet the provisions of 10 CFR 50.75(h). Based on the above, the NRC staff concludes that the proposed 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 on May 19, 2017. The State official had no comments.

5.0 ENVIRONMENTAL CONSIDERATION

The amendment changes a requirement with respect to installation or use of a facility component located within the restricted area as defined in 10 CFR Part 20. The NRC staff has determined that the amendment involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. 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 published in the *Federal Register* on March 28, 2017 (82 FR 15381). In addition, the regulation in 10 CFR 50.75(h)(4) states that in the absence of a determination by the Commission otherwise, an amendment "that does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust fund agreement involves no significant hazards consideration." The Commission made no determination that the Oyster Creek amendment involved significant hazards. Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). 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) there is reasonable assurance that 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: J. Lamb

Date: June 23, 2017

SUBJECT: OYSTER CREEK NUCLEAR GENERATING STATION - ISSUANCE OF AMENDMENT RE: DELETION OF FACILITY OPERATING LICENSE CONDITIONS RELATED TO DECOMMISSIONING TRUST PROVISIONS (CAC NO. MF9293) DATED JUNE 23, 2017.

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