

AMERGEN ENERGY COMPANY, LLC
DOCKET NO. 50-219
OYSTER CREEK NUCLEAR GENERATING STATION
RENEWED FACILITY OPERATING LICENSE
Renewed License No. DPR-16

1. The Nuclear Regulatory Commission (NRC or the Commission) having previously made the finding set forth in License DPR-16 issued on July 2, 1991, has now found that:
 - A. The application to renew license No. DPR-16 filed by AmerGen Energy Company, LLC (AmerGen or the Licensee) 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, and all required notifications to other agencies or bodies have been duly made;
 - B. Construction of the Oyster Creek Nuclear Generating Station (OCNGS or the facility) has been completed in conformity with Provisional Construction Permit No. CPPR-15; the application, as amended; the provisions of the Act; and the rules and regulations of the Commission;
 - C. Actions have been identified and have been or will be taken with respect to (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified to require review under 10 CFR 54.21(a)(1); and (2) time-limited aging analyses that have been identified to require review under 10 CFR 54.21(c), such that there is reasonable assurance that the activities authorized by the renewed operating license will continue to be conducted in accordance with the current licensing basis, as defined in 10 CFR 54.3, for the facility, and that any changes made to the facility's current licensing basis in order to comply with 10 CFR 54.29(a) are in accordance with the Act and the Commission's regulations;
 - D. The facility will operate in conformity with the application, as amended; the provisions of the Act, and the rules and regulations of the Commission (except as exempted from compliance in Section 2.D. below);
 - E. There is reasonable assurance (i) that the activities authorized by the renewed operating license 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 rules and regulations set forth in 10 CFR Chapter I (except as exempted from compliance in Section 2.D. below);
 - F. AmerGen is technically qualified to engage in the activities authorized by this renewed operating license in accordance with the rules and regulations of the Commission;
 - G. AmerGen has satisfied the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations;

- H. The issuance of this renewed license will not be inimical to the common defense and security or to the health and safety of the public;
 - I. The receipt, possession and use of source, byproduct, and special nuclear materials as authorized by this renewed license will be in accordance with the Commission's regulations in 10 CFR Parts 30, 40, and 70; and
 - J. The issuance of this renewed license is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.
2. Operating License No. DPR-16, dated July 2, 1991, as amended, is superseded in its entirety by Facility Renewed Operating License No. DPR-16, hereby issued to AmerGen to read as follows:
- A. This renewed operating license applies to the Oyster Creek Nuclear Generating Station, a boiling-water reactor and associated equipment (the facility), owned by AmerGen. The facility is located in Ocean County, New Jersey, and is described in the Licensee's Updated Final Safety Analysis Report, as supplemented and amended, and in the Licensee's Environmental Report, as supplemented and amended.
 - B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses AmerGen:
 - (1) Pursuant to Section 104b of the Act and 10 CFR Part 50, to possess, use, and operate Oyster Creek Nuclear Generating Station at the designated location on the Oyster Creek site in Ocean County, New Jersey, in accordance with the procedures and limitations set forth in this renewed license;
 - (2) Pursuant to the Act and 10 CFR Part 70, to receive, possess, and use at any time special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation, as described in the Updated Final Safety Analysis Report, as supplemented and amended;
 - (3) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use at any time any byproduct, source, or special nuclear materials as sealed neutron sources for reactor startup, sealed sources for reactor instrumentation and radiation monitoring equipment calibration, and as fission detectors in amounts as required;
 - (4) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use in amounts as required any byproduct, source, or special nuclear materials without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and

- (5) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to possess, but not separate such byproduct, source, or special nuclear materials as may be produced by the operation of the facility.

C. This renewed license shall be deemed to contain and is subject to the conditions specified in the Commission's regulations set forth in 10 CFR Chapter 1 and is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter applicable and is subject to the additional conditions specified or incorporated below:

- (1) Maximum Power Level

AmerGen is authorized to operate the facility at reactor steady-state core power levels not in excess of 1930 megawatts (thermal) (100 percent rated power) in accordance with the conditions specified herein.

- (2) Technical Specifications and Environmental Technical Specifications

The Technical Specifications contained in Appendices A and B, as revised through Amendment No. 265, are hereby incorporated in the renewed license. AmerGen shall operate the facility in accordance with the Technical Specifications.

- (3) Fire Protection

AmerGen shall implement and maintain in effect all provisions of the approved fire protection program as described in the Updated Final Safety Analysis Report for the facility and as approved in the Safety Evaluation Report dated March 3, 1978, and supplements thereto, subject to the following provision:

The Licensee may make changes to the approved fire protection program without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire.

- (4) Security Training and Qualification

AmerGen, shall fully implement and maintain in effect all provisions of the Commission-approved physical security, training and qualification, and safeguards contingency plans including amendments made pursuant to provisions of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27817 and 27822), and the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The combined set of plans¹, which contain Safeguards Information protected under 10 CFR 73.21, is

¹ The Training and Qualification Plan and Safeguards Contingency Plan are Appendices to the Security Plan.

entitled: "Oyster Creek Nuclear Generating Station Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan, Revision 5," submitted by letter dated May 17, 2006.

(5) Inspections of Core Spray Spargers

Inspections of core spray spargers, piping and associated components will be performed in accordance with BWRVIP-18A, "BWR Core Spray Internals Inspection and Flaw Evaluation Guidelines," as approved by NRC staff's Final Safety Evaluation Report dated December 2, 1999.

(6) Reactor Vessel Integrated Surveillance Program

AmerGen, is authorized to revise the Updated Final Safety Analysis Report (UFSAR) to allow implementation of the Boiling Water Reactor Vessel and Internals Project reactor pressure vessel Integrated Surveillance Program as the basis for demonstrating compliance with the requirements of Appendix H to Title 10 of the *Code of Federal Regulations* Part 50, "Reactor Vessel Material Surveillance Program Requirements," as set forth in the Licensee's application dated December 20, 2002, and as supplemented on May 30, September 10, and November 3, 2003.

All capsules in the reactor vessel that are removed and tested must meet the test procedures and reporting requirements of American Society for Testing and Materials (ASTM) E 185-82 to the extent practicable for the configuration of the specimens in the capsule. Any changes to the capsule withdrawal schedule, including spare capsules, must be approved by the NRC prior to implementation. All capsules placed in storage must be maintained for future insertion. Any changes to storage requirements must be approved by the NRC, as required by 10 CFR Part 50, Appendix H.

(7) Inspection of Drywell Sand Bed Region

The Licensee shall perform full scope inspections (as defined in Appendix A of the license renewal safety evaluation report; dated March 20, 2007 and summarized in the UFSAR) of the drywell sand bed region every other refueling outage beginning in the refueling outage prior to the period of extended operations.

(8) Drywell Trenches

The Licensee shall monitor the drywell trenches (as defined in Appendix A of the license renewal safety evaluation report; dated March 20, 2007) every refueling outage to identify and eliminate the sources of water and receive NRC approval prior to restoring the trenches to their original design configuration.

(9) Engineering Study of Refueling Cavity Liner

The Licensee shall perform an engineering study prior to the period of extended operation to identify options to eliminate or reduce the leakage in the OCGS refueling cavity liner.

(10) Three Dimensional Finite-Element Analysis of Drywell Shell

The Licensee shall perform a 3-D (dimensional) finite-element analysis of the drywell shell and provide to the NRC staff a summary of the results prior to entering the period of extended operation.

(11) UFSAR Supplement Changes

The UFSAR supplement, as revised, submitted pursuant to 10 CFR54.21(d), shall be included in the next scheduled update to the UFSAR required by the 10 CFR 50.71(e)(4) following the issuance of this renewed operating license. Until that update is complete, AmerGen may make changes to the programs and activities described in the supplement without prior Commission approval, provided that AmerGen evaluates such changes pursuant to the criteria set forth in 10 CFR 50.59 and otherwise complies with the requirements in that section.

(12) License Renewal Commitments

The UFSAR supplement, as revised, describes certain future activities to be completed prior to and during the period of extended operation. AmerGen shall complete these activities in accordance with Appendix A of NUREG-1875, "Safety Evaluation Report Related to the License Renewal of Oyster Creek Generating Station", dated March 2007, and shall notify the NRC in writing when implementation of those activities required prior to the period of extended operation are complete and can be verified by NRC inspection.

(13) Biological Opinion

Within thirty days from the issuance date of the renewed license, AmerGen shall comply with the terms and conditions of the Incidental Take Statement in the Biological Opinion in effect or as subsequently issued by the National Marine Fisheries Service regarding operation of OCGS.

(14) Financial Protection

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.

(15) Sale and License Transfer Conditions:

- a. AmerGen shall provide decommissioning funding assurance of no less than \$400 million, after payment of any taxes, deposited in the decommissioning trust fund for Oyster Creek when Oyster Creek is transferred to AmerGen.
- b. The decommissioning trust agreement for Oyster Creek must be in a form acceptable to the NRC.
- c. With respect to decommissioning trust fund investments in the securities or other obligations of Exelon Corporation, AmerGen, 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.
- d. 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.
- e. 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.
- f. 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.
- g. AmerGen 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.
- h. AmerGen shall take no action to cause Exelon Generation Company, LLC or its affiliates, successors, or assigns to void, cancel, or diminish its \$200 million contingency commitment to AmerGen, dated December 22, 2003, or cause it to fail to perform

or impair its performance under the commitment, or remove or interfere with AmerGen's ability to draw upon the commitment. Also, AmerGen shall inform the NRC in writing whenever it draws upon the \$200 million commitment.

- D. The facility has been granted certain exemptions from the requirements of Section III.G of Appendix R of 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979." This section relates to fire protection features for ensuring the systems and associated circuits used to achieve and maintain safe shutdown are free of fire damage. These exemptions were granted and sent to the Licensee in letters dated March 24, 1986 and June 25, 1990.

The facility has also been granted certain exemptions from the requirements of Section III.J of Appendix R to 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979." This section relates to emergency lighting that shall be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto. This exemption was granted and sent to the Licensee in a letter dated February 12, 1990.

In addition, the facility has been granted certain exemptions from Section 55.45(b)(2)(iii) and (iv) of 10 CFR Part 55, "Operators' Licenses." These sections contain requirements related to site-specific simulator certification and require that operating tests will not be administered on other than a certified or an approved simulation facility after May 26, 1991. These exemptions were granted and sent to the Licensee in a letter dated March 25, 1991.

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.

3. This license is effective as of the date of issuance and shall expire at midnight on April 9, 2029.