

# OYSTER CREEK LICENSE RENEWAL FACTSHEET

## Key Dates

December 22, 2004 – the Nuclear Regulatory Commission (NRC) grants a protective exemption to AmerGen allowing OC to submit a license renewal application less than five years prior to license expiration thereby allowing the plant to continue to operate under the existing license beyond its expiration date should legal proceedings delay a license renewal decision.

July 22, 2005 – AmerGen files application to extend license to 2029.

January 19, 2007 – Final Environmental Impact Statement issued by NRC.

March 30, 2007 – Final Safety Evaluation Report issued by NRC.

September 24-25, 2007 – Atomic Safety and Licensing Board (ASLB) hearing on Citizens' drywell contention.

December 18, 2007 – ASLB decision rejects Citizens' contention; one Judge issues an "additional statement" expressing the need for additional drywell analysis.

January 14, 2008 – Citizens appeal ASLB decision to NRC Commissioners.

February 21, 2008 – NRC Commissioners return "without action" NRC Staff's review and NRC Director of Operations request for approval to issue the renewed license.

April 18, 2008 – Citizens file new contention on OC metal fatigue evaluations.

April 9, 2009 – Expiration date for current license, OC will enter 20-year period of extended operation.

## NJDEP U.S. 3<sup>rd</sup> Circuit Court Appeal

The New Jersey Department of Environmental Protection (NJDEP) has appealed to the U.S. Court of Appeals for the 3<sup>rd</sup> Circuit (Philadelphia), the NRC's rejection of NJDEP's contention that the environmental effects of a terrorist attack, such as an aircraft impact on the spent fuel pool, be considered in the relicensing process for Oyster Creek. The basis for this appeal is a similar case where the U.S. 9<sup>th</sup> Circuit Court (San Francisco) ruled in 2006 that for the licensing of the Diablo Canyon Independent Fuel Storage Installation that environmental impacts from potential terrorist acts should be considered in the environmental assessment. Subsequently, Pacific Gas & Electric, the owner of Diablo Canyon, petitioned the U.S. Supreme Court to hear the case, but the Court refused so the 9<sup>th</sup> Circuit Court decision stands. The NRC has decided that the 9<sup>th</sup> Circuit Court decision does not apply to cases outside the Court's jurisdiction. The NJDEP case contests this decision. NJDEP is awaiting action by the 3<sup>rd</sup> Circuit Court which has accepted the case.

## Citizens' Drywell Contention

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On March 30, 2007, AmerGen submitted a motion to dismiss the “Citizens” contention that AmerGen’s scheduled monitoring frequency for the sand bed region of the drywell is not sufficient to maintain an adequate safety margin for the drywell vessel at the Oyster Creek Nuclear Generating Station. The NRC ruled against that motion on June 20, 2007.

Consequently, the NRC, Atomic Safety and Licensing Board (ASLB), conducted a hearing on the Citizens’ contention on September 24-25, 2007. Although the hearings were open to the public, only testimony from attorneys and witnesses for the NRC, plant officials and the six-group citizens coalition was heard. On December 18, 2007, the ASLB issued their decision rejecting the Citizens’ contention, with one Judge issuing an “additional statement” expressing the need for additional drywell analysis. On January 14, 2008, the Citizens appealed the ASLB decision to the NRC Commissioners. This appeal remains ongoing.

On April 18, 2008, the Citizens filed a new “late” contention related to OC metal fatigue evaluations. A decision to accept this contention is pending.

### **Federal Coastal Zone Management Act – Federal Consistency Determination**

Coastal states have the authority over a broad range of activities that could affect coastal zone resources. In the U.S., coastal areas are managed through the federal Coastal Zone Management Act of 1972 (CZMA). Federal consistency is the CZMA requirement that federal actions that have reasonably foreseeable effects of any land or water use or natural resource of the coastal zone must be consistent with the enforceable policies of a coastal State’s federally approved Coastal Management Program. Federal actions requiring a consistency review include activities not performed by a federal agency, but requiring federal permits, licenses or other forms of federal approvals, for example Nuclear Regulatory Commission (NRC) licenses (including license renewals or amendments) for nuclear power plants. The NJDEP’s Land Use Regulation Program conducts the Department’s Federal Consistency Reviews.

On January 21, 2005, AmerGen Energy Company LLC (AmerGen) submitted an application to the NJDEP for a Federal Consistency Determination for the license renewal of the Oyster Creek Nuclear Generating Station (Oyster Creek) by the NRC. In a March 31, 2005 letter, the NJDEP requested information to address application deficiencies. On August 19, 2005, the NJDEP objected to AmerGen’s CZMA certification. AmerGen withdrew its application for consistency certification with the NJDEP on September 19, 2005.

On December 1, 2006, AmerGen, submitted a new request for a consistency determination to the NJDEP that included additional information not contained in the original request. Despite the additional information, in a May 31, 2007 letter to AmerGen, the NJDEP found that insufficient fisheries data had been submitted which precluded the Department from making a positive consistency determination.

On September 13, 2007, AmerGen submitted a response to the DEP indicating that additional fisheries data had been collected and that specific mitigation proposals were developed to address the impacts of the operation of Oyster Creek on Barnegat Bay. This letter also detailed further AmerGen commitments that included (1) donating approximately 220 acres of land to Lacey

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Township that will provide public access to Barnegat Bay from Finninger Farm; and (2) providing available data from Year Two of Ameren's ongoing study of impingement mortality and entrainment data.

On December 28, 2007, NJDEP completed the review of AmerGen's request for a Federal Consistency Determination. Based on this review, and consideration of all of the public comments that were received, the NJDEP found that the proposed relicensing of Oyster Creek is consistent with the New Jersey Coastal Management Program.

Information on the NJDEP's Coastal Zone Management Program and Federal Consistency Determinations can be found at the following website address:

[http://www.state.nj.us/dep/cmp/czm\\_federal.html](http://www.state.nj.us/dep/cmp/czm_federal.html)

### **New Jersey Pollutant Discharge Elimination System**

New Jersey Pollutant Discharge Elimination System (NJPDES) permits are administered by the Department's Division of Water Quality. The Program's goal is to improve the State's water quality by reducing or eliminating pollutants discharged into the waters or onto lands of the State. The major tool used to achieve this goal is the NJPDES permit which establish limits on the pollutants discharged through direct and/or indirect pathways. Below is the status of NJPDES permit at Oyster Creek.

On February 16, 2004, the US Environmental Protection Agency (EPA) released its final regulations for section 316(b) of the Clean Water Act ("Phase II rule") for large, existing power generating facilities, including Oyster Creek. The Phase II rule established national standards for cooling water intake structures. A draft NJPDES permit, authorizing the intake and discharge of water used by Oyster Creek, was issued on July 19, 2005. This draft permit was based on Phase II federal regulations. While AmerGen is in compliance with the existing NJPDES permit issued in 1994 with respect to Section 316(b) measures, in March of 2007, as the result of litigation over the Phase II regulations, EPA suspended its rule and directed states and permitting authorities to issue permits in accordance with Best Professional Judgment. The July 19, 2005 draft NJPDES permit would have allowed two compliance options pursuant to the suspended rule, but stated that the Department preferred closed-cycle cooling as the Best Technology Available to minimize the impacts of the Oyster Creek cooling water intake structure.

Due to the fact that the July 19, 2005 draft NJPDES permit relied heavily on the now suspended federal rule, the Department is in the process of drafting a new NJPDES permit. The NJPDES permit will be subject to public comment and notice procedures as specified at N.J.A.C. 7:14A-1 et seq. Additional information on the NJPDES program can be found on the Division of Water Quality's website address at: <http://www.nj.gov/dep/dwq/njpdес.htm>.