

December 14, 2004

Mr. Gregory M. Rueger
Senior Vice President, Generation and
Chief Nuclear Officer
Pacific Gas and Electric Company
Diablo Canyon Power Plant
P.O. Box 3
Avila Beach, CA 93424

SUBJECT: DIABLO CANYON POWER PLANT, UNIT NOS. 1 AND 2 – NOTICE OF
CONSIDERATION OF ISSUANCE OF AMENDMENTS TO FACILITY
OPERATING LICENSES, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING
(TAC NOS. MC5143 AND MC 5144)

Dear Mr. Rueger:

Enclosed is a copy of a "Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing," related to the application dated November 3, 2004, by Pacific Gas and Electric Company requesting amendments to Facility Operating License Nos. DPR-80 and DPR-82. The proposed amendments would revise Technical Specification (TS) 3.7.17 and TS 4.3 for Cycles 14–16 to allow installation and use of a temporary cask pit spent fuel storage rack (cask pit rack) for the Diablo Canyon Power Plant, Unit Nos. 1 and 2. The total spent fuel pool storage capacity for each unit would be increased to 1478 fuel assemblies for Cycles 14–16.

This notice is being forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

Girija Shukla, Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-275 and 50-323

Enclosure: Notice

cc w/encl: See next page

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Diablo Canyon Power Plant, Units 1 and 2

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UNITED STATES NUCLEAR REGULATORY COMMISSION

PACIFIC GAS AND ELECTRIC COMPANY

DOCKET NOS. 50-275 AND 50-323

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO
FACILITY OPERATING LICENSES, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-80 and DPR-82 issued to Pacific Gas and Electric Company (the licensee) for operation of the Diablo Canyon Power Plant (DCPP), Unit Nos. 1 and 2 located in San Luis Obispo County, California.

The proposed amendments would revise Technical Specification (TS) 3.7.17 and TS 4.3 for Cycles 14–16 to allow installation and use of a temporary cask pit spent fuel storage rack (cask pit rack) for DCPP Unit Nos. 1 and 2. The total spent fuel pool (SFP) storage capacity for each unit would be increased to 1478 fuel assemblies for Cycles 14–16.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the CODE OF FEDERAL REGULATIONS (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create

the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to temporarily increase the spent fuel storage capacity with a cask pit rack were evaluated for impact on the following previously evaluated events:

1. A fuel handling accident (FHA)
2. A heavy load drop into the cask pit
3. A loss of spent fuel pool (SFP) cooling
4. A stored fuel criticality event
5. A seismic event

The probability of a FHA is not significantly increased by the proposed changes, because the same equipment (e.g., the spent fuel handling crane) and procedures will be used to handle fuel assemblies and the frequency of fuel movement will be essentially the same, with or without a cask pit rack. The FHA radiological consequences are not significantly increased because the source term of a single fuel assembly will remain unchanged, and the cask pit rack will be installed at the same water depth as the existing SFP racks, with the same iodine decontamination factors assumed in the FHA analysis. The structural consequences of dropping a fuel assembly on a cask pit rack were evaluated and found to be acceptable.

In accordance with NUREG-0612 ["Control of Heavy Loads at Nuclear Power Plants"], heavy load drops are not required to be postulated if a single failure-proof crane is used for heavy load movements. If drops are postulated, then the consequences must be acceptable. PG&E plans to install a single failure-proof crane in accordance with NUREG-0612, prior to heavy load movements associated with the cask pit rack and platform. In the event that a single failure-proof crane is not available, PG&E has also performed heavy load drop analyses for the cask pit rack and platform, which have shown acceptable results in accordance with NUREG-0612. Therefore, the probability and the consequences of a heavy load drop in the cask pit are not significantly increased.

The probability of a loss of SFP cooling is unaffected and its consequences are not significantly increased with the cask pit rack installed. With the cask pit rack installed, loss of forced cooling results in a sufficient time-to-boil for the operator to recognize the condition and establish SFP makeup to compensate for water

lost due to pool bulk boiling, and thereby maintain a sufficient water blanket over the stored spent fuel.

The probability and consequences of a stored fuel criticality event are not increased by the addition of a cask pit rack. The reactivity analysis for the new cask pit rack demonstrates that reactivity remains subcritical (below 0.95) for the worst-case fuel-mispositioning event with credit for soluble boron.

The probability of a seismic event is unaffected and its consequences are not increased with the cask pit rack installed, because the structural analysis of the cask pit rack demonstrates that the fuel storage function of the rack is maintained during a seismic event.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to add a cask pit rack does not alter the operating requirements of the plant or the equipment credited in the mitigation of design basis accidents, nor do the proposed changes affect any of the important parameters required to ensure the safe storage of spent fuel. A new rack material (Metamic™) is introduced into the pool under these changes; but, based on testing results, there are no mechanisms that create a new or different kind of accident. The NRC has also approved the use of Metamic™ generically for SFPs. The same equipment (e.g., the spent fuel handling crane) and procedures will be used to handle fuel assemblies for the new cask pit rack as are used for existing spent fuel storage. The fuel storage configuration in the cask pit rack will be similar to the configuration in the existing SFP storage racks, and a fuel drop or mispositioning event in the new racks does not represent a new or different kind of accident from fuel handling and mispositioning events previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The effect of the proposed change on current margins of safety was evaluated for spent fuel storage functionality and criticality, spent fuel and SFP cooling, and SFP/cask pit structural integrity. The design of the new cask pit rack uses proven technology which preserves the proper safety margins for spent fuel storage to provide a coolable and subcritical geometry under both normal and abnormal/accident conditions. The rack design complies with 10 CFR 50 Appendix A General Design Criterion (GDC) 62, the O.T. Position for Review and Acceptance of Spent Fuel Storage and Handling Applications, Regulatory

Guide 1.13, and ANSI/American Nuclear Society (ANS) 52.2. Handling of the cask pit rack and its platform in accordance with the defense-in-depth approach of NUREG-0612 with temporary lift devices designed to ANSI N14.6 preserves the proper margin of safety to preclude a heavy load drop in the cask pit.

The proposed SFP cooling system design basis is consistent with the previous licensing basis in FSAR [Final Safety Analysis Report], Section 9.1, for SFP temperature limits during normal and abnormal core offload conditions. The rack and SFP thermal-hydraulic analyses demonstrate that the proposed SFP cooling system design basis is met, and that no bulk boiling will occur in the cask pit rack or SFP with minimum cooling available. In the event of a loss of SFP cooling, there will be sufficient time for operators to identify the condition and initiate makeup flow or restore cooling to preserve fuel-cooling capability.

The criticality analysis demonstrates that the effective neutron multiplication factor (k_{eff}) is less than 1.0 for normal conditions with unborated water and less than 0.95 with 500 ppm of soluble boron, at a 95 percent probability with a 95 percent confidence level. Further, the reactivity effects of abnormal and accident conditions have been evaluated. To assure that under credible abnormal and accident conditions the reactivity will not exceed 0.95 at a 95 percent probability with a 95 percent confidence level, a soluble boron level of 800 ppm will be required to be maintained.

The structural analyses for the cask pit rack and platform and adjacent structures show acceptable results during seismic motion.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the

amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the *Federal Register* a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is

available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: 1) the name, address and telephone number of the requestor or petitioner; 2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; 3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and 4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those

specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)-(viii).

A request for a hearing or a petition for leave to intervene must be filed by: 1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory

Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; 2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; 3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, HEARINGDOCKET@NRC.GOV; or 4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by email to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120, the attorney for the licensee.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to “any matter which the Commission determines to be in controversy among the parties.”

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission’s rules and the designation, following argument of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual

adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors." Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed together with a request for hearing/petition to intervene, filed in accordance with 10 CFR 2.309. If it is determined a hearing will be held, the presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart L apply.

For further details with respect to this action, see the application for amendments dated November 3, 2004, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have

access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 14th day of December 2004.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Girja Shukla, Project Manager, Section
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation