

54.29, the NRC will issue a renewed license on the basis of its review if it finds that 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 as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB), and that any changes made to the plant's CLB comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants," dated May 1996. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be included in a future **Federal Register** notice. The Commission also intends to hold public meetings to discuss the license renewal process and the schedule for conducting the review. The Commission will provide prior notice of these meetings.

Finally, the Commission will announce in a future **Federal Register** notice, in accordance with the provisions of 10 CFR 2.105, the opportunity to request a hearing and to file a petition for leave to intervene.

Detailed information about the license renewal process can be found under the Nuclear Reactors icon on the NRC's Web page at <http://www.nrc.gov/reactors/operating/licensing/renewal.html>. A copy of the application to renew the operating licenses for Joseph M. Farley Nuclear Plant, Units 1 and 2, is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20855-2738, and on the NRC's Web page at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications/farley.html> while the application is under review. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. A copy of the application to renew the operating licenses for Joseph M. Farley Nuclear Plant, Units 1 and 2, is also available

electronically through the NRC's Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html> under ADAMS Accession Number ML032721356. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

The staff has verified that a copy of the license renewal application for the Joseph M. Farley Nuclear Plant, Units 1 and 2, is also available to local residents near the Farley Nuclear Plant at the Houston Love Memorial Library, 212 West Burdeshaw Street, Dothan, Alabama 36303-4421.

Dated at Rockville, Maryland, this 24th day of October 2003.

For the Nuclear Regulatory Commission.

**Samson S. Lee,**

*Acting Program Director, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

**[Docket Nos: (Redacted), License Nos: (Redacted), EA (Redacted)]**

### **In the Matter of All Power Reactor Licensees and Research Reactor Licensees Who Transport Spent Nuclear Fuel; Order Modifying License (Effective Immediately)**

#### **I**

The licensees identified in Attachment 1 to this Order have been issued a specific license by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing the possession of spent nuclear fuel and a general license authorizing the transportation of spent nuclear fuel [in a transportation package approved by the Commission] in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR Parts 50 and 71. This Order is being issued to all such licensees who transport spent nuclear fuel. Commission regulations for the shipment of spent nuclear fuel at 10 CFR 73.37(a) require these licensees to maintain a physical protection system that meets the requirements contained in 10 CFR 73.37(b), (c), (d), and (e).

#### **II**

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility or regulated activity. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures are required to be implemented by licensees as prudent, interim measures, to address the current threat environment in a consistent manner. Therefore, the Commission is imposing requirements, as set forth in Attachment 2 of this Order, on all licensees identified in Attachment 1 of this Order.<sup>1</sup> These additional security requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 2 to this Order in response to previously issued Safeguards and Threat Advisories or on their own. It is also recognized that some measures may not be possible or necessary for all shipments of spent nuclear fuel, or may need to be tailored to accommodate the licensees' specific circumstances to achieve the intended objectives and avoid any unforeseen effect on the safe transport of spent nuclear fuel.

Although the additional security measures implemented by licensees in response to the Safeguards and Threat

<sup>1</sup> Attachments 1 and 2 contain SAFEGUARDS INFORMATION and will not be released to the public.

Advisories have been adequate to provide reasonable assurance of adequate protection of common defense and security, in light of the current threat environment, the Commission concludes that the additional security measures must be embodied in an Order consistent with the established regulatory framework. In order to provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all licenses identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 2 to this Order. In addition, pursuant to 10 CFR 2.202, and in light of the common defense and security matters identified above which warrant the issuance of this Order, the Commission finds that the public health, safety, and interest require that this Order be immediately effective.

### III

Accordingly, pursuant to Sections 53, 103, 104, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 50 and 71, *it is hereby ordered, effective immediately, that all licenses identified in Attachment 1 to this order are modified as follows:*

A. All Licensees shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 2 to this Order except to the extent that a more stringent requirement is set forth in the Licensee's security plan. The Licensees shall immediately start implementation of the requirements in Attachment 2 to the Order and shall complete implementation by November 22, 2003, unless otherwise specified in Attachment 2, or before the first shipment after October 23, 2003, whichever is earlier.

B. 1. All Licensees shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if they are unable to comply with any of the requirements described in Attachment 2, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

2. Any Licensee that considers that implementation of any of the

requirements described in Attachment 2 to this Order would adversely impact the safe transport of spent fuel must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 2 requirement in question, or a schedule for modifying the activity to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B1.

C. 1. All Licensees shall, within twenty (20) days of the date of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachment 2.

2. All Licensees shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 2.

D. Notwithstanding any provisions of the Commission's regulations to the contrary, all additional security measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

Licensee responses to Conditions B1, B2, C1, and C2 above, shall be submitted to the NRC to the attention of the Director, Office of Nuclear Reactor Regulation under 10 CFR 50.4. In addition, Licensee submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 CFR 73.21.

The Director, Office of Nuclear Reactor Regulation, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

### IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for

the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555-0001. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; to the Regional Administrator for NRC Region I, II, III, or IV, as appropriate for the specific facility; and to the Licensee if the answer or hearing request is by a person other than the Licensee. Because of potential disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to (301) 415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov), and also to the Office of the General Counsel either by means of facsimile transmission to (301) 415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order.

without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland, this 23rd day of October 2003.

For the Nuclear Regulatory Commission.

**R. William Borchardt,**

*Acting Director, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 72-26]

### **Pacific Gas and Electric Company; Notice of Issuance of Environmental Assessment and Finding of No Significant Impact for the Diablo Canyon Independent Spent Fuel Storage Installation**

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of a materials license under the requirements of Title 10 of the Code of Federal Regulations, Part 72 (10 CFR Part 72), to the Pacific Gas and Electric Company (the applicant), authorizing the construction and operation of an independent spent fuel storage installation (ISFSI) to be located at the Diablo Canyon Power Plant (DCPP) in San Luis Obispo County, California. The Commission's Office of Nuclear Material Safety and Safeguards has completed its review of the environmental report submitted by the applicant on December 21, 2001, as amended by letter dated October 15, 2002, in support of its application for a materials license. The staff's "Environmental Assessment Related to the Construction and Operation of the Diablo Canyon Independent Spent Fuel Storage Installation" has been issued in accordance with 10 CFR Part 51.

#### **Summary of Environmental Assessment (EA)**

*Description of the Proposed Action:* The proposed licensing action would authorize the applicant to construct and operate a dry storage ISFSI at the DCPP site. The purpose of the ISFSI is to provide for additional interim storage of spent nuclear fuel generated from the operation of the Diablo Canyon Power Plant, Units 1 and 2. The proposed ISFSI would employ the HI-STORM

100 dry cask storage system designed by Holtec International, Inc. The major components of the system include the steel multipurpose canisters (MPCs), each containing 24 or 32 spent fuel assemblies; the concrete overpacks, which provide additional shielding for the MPCs in storage; and the transfer cask, used to move loaded and sealed MPCs from the fuel handling building to the ISFSI. A license issued for an ISFSI under 10 CFR Part 72 is issued for a fixed period not to exceed 20 years. A license holder may apply to the Commission to renew the license prior to its expiration.

*Need for the Proposed Action:* The Diablo Canyon ISFSI is needed to provide additional spent fuel storage capacity so that the two DCPP reactors can continue to generate electricity beyond 2006, when the storage capacity of the plant's two spent fuel pools will be reached. A delay in the availability of this additional storage capacity may cause a reduction in power operation, or could necessitate the shutdown of Units 1 and 2. By providing additional capacity for temporary spent fuel storage with the proposed ISFSI, sufficient space can be maintained in each unit's spent fuel pool to fully offload its reactor core, if necessary, enabling the applicant to continue to operate both units until the current operating licenses expire (September 2021 for Unit 1 and April 2025 for Unit 2).

*Environmental Impacts of the Proposed Action:* The NRC staff has concluded that the construction, operation, and decommissioning of the Diablo Canyon ISFSI will not result in a significant impact to the environment. Construction impacts of the ISFSI will be minor, and limited to the small area of the ISFSI site and the excavated material disposal sites. The site chosen for the ISFSI, on approximately 5 acres of the 760 acre DCPP site, has been previously disturbed during plant construction, as have the disposal sites for the excavated material. The proposed ISFSI site and the disposal areas have been extensively surveyed and no federal or state listed threatened or endangered species have been found in those areas. Thus, the staff does not expect the proposed ISFSI to impact any threatened or endangered species. There will be minor impacts of increased noise and dust from construction equipment and activities during the construction phase, but this phase will be of short duration and will not impact offsite populations. The proposed ISFSI site is near a site which is included in the National Register of Historic Places, CA-SLO-2, but construction of the

ISFSI will not cause any adverse impacts to that site, due to the natural features and to the administrative controls employed by the applicant.

There will be no significant radiological or non-radiological environmental impacts from routine operation of the ISFSI. The ISFSI is a passive facility and no liquid or gaseous effluents will be released from the storage casks. The dose rates from the spent fuel will be limited by the design of the storage cask concrete overpacks. The total occupational dose to workers at the DCPP site may increase slightly due to work associated with loading, transferring, and storing the casks, but all occupational doses must be maintained below the limits specified in 10 CFR Part 20. The annual dose to the nearest resident from ISFSI activities is estimated to be 0.40 mrem/year, which is significantly below the annual dose limits specified in 10 CFR 72.104 and 10 CFR 20.1301(a) (25 mrem and 100 mrem, respectively). The cumulative dose to an individual offsite from all site activities will be 0.45 mrem/year, which is also much less than the limits specified in 10 CFR 72.104 and 10 CFR 20.1301. These doses are also a small fraction of the doses resulting from naturally-occurring terrestrial and cosmic radiation of about 100 mrem/yr in the vicinity of the DCPP.

Additionally, occupational doses received by facility workers will not exceed the limits specified in 10 CFR 20.1201. For hypothetical accidents, the calculated dose to an individual at the nearest site boundary is well below the 5 rem limit for accidents set forth in 10 CFR 72.106(b) and in the U.S. Environmental Protection Agency's protective action guidelines.

The impacts from decommissioning the ISFSI will be much less than the minor impacts of construction and operation. Very small occupational exposures could occur during decontamination activities, if they are necessary, and minor noise and dust impacts could result from dismantling the pad and structures.

*Alternatives to the Proposed Action:* The applicant's Environmental Report and the staff's EA discussed several alternatives to the proposed ISFSI. These alternatives included shipment of spent fuel off site, and other methods to increase onsite spent fuel storage capacity, as well as the no action alternative. In the first category, the alternatives of shipping spent fuel from Diablo Canyon to a permanent Federal Repository, to a reprocessing facility, or to a privately owned spent fuel storage facility were determined to be non-viable alternatives, as no such facilities