

September 2, 1994

Mr. Gregory M. Rueger
Nuclear Power Generation, B14A
Pacific Gas and Electric Company
77 Beale Street, Room 1451
P.O. Box 770000
San Francisco, California 94177

SUBJECT: NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY
OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION
DETERMINATION, AND OPPORTUNITY FOR A HEARING FOR DIABLO CANYON
POWER PLANT, UNIT NO. 1 (TAC NO. M90256) AND UNIT NO. 2
(TAC NO. M90257)

Dear Mr. Rueger:

Enclosed is a copy of the Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing related to your application for amendment dated August 29, 1994. The proposed amendment would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to specify an alternate method of determining water and sediment content for new diesel fuel oil as specified in TS 3/4.8.1.1, "A.C. Sources - Operating."

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

Sincerely,

ORIGINAL SIGNED BY:

Sheri R. Peterson, Project Manager
Project Directorate IV-2
Division of Reactor Projects III/IV
Office of Nuclear Reactor Regulation

Docket Nos. 50-275
and 50-323

Enclosure:
Notice

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DOCUMENT NAME: DC90256.AMX

OFFICE	DRPW/LA <i>J-C</i>	PDIV-2/PM	PDIV-2/D		
NAME	DFoster-Curseen	SPeterson	TQuay		
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Mr. Gregory M. Rueger
Pacific Gas and Electric Company

Diablo Canyon

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UNITED STATES NUCLEAR REGULATORY COMMISSIONPACIFIC GAS AND ELECTRIC COMPANYDOCKET NOS. 50-275 AND 50-323NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment 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, Unit Nos. 1 and 2 located in San Luis Obispo County, California.

The proposed amendment would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to specify an alternate method of determining water and sediment content for new diesel fuel oil as specified in TS 3/4.8.1.1, "A.C. Sources - Operating." The specific TS changes proposed are as follows:

TS 4.8.1.1.3c.1)d) would be revised to allow new fuel oil to be tested using a "clear and bright" test or a quantitative test that verifies a water and sediment content less than or equal to 0.05 volume percent when tested in accordance with ASTM D1796-83.

DCPP currently uses undyed number 2 diesel fuel oil that contains intermediate levels of sulfur and aromatics. Recently, the local fuel supplier unexpectedly discontinued production of this fuel oil. This fuel may be available from other suppliers outside of the State of California, however, its availability cannot be assured. Based on current emergency

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diesel generator (EDG) testing schedules, it is expected that fuel oil will need to be added to the main fuel oil storage tanks by approximately October 1, 1994, to meet minimum storage requirements.

Environmental Protection Agency and Internal Revenue Service regulations require fuel not intended for use in motor vehicles to be dyed. The two reliable fuels that could be used at DCPD are: (1) dyed number 2 diesel fuel oil; or (2) undyed California Air Resources Board (CARB) number 2 diesel fuel oil intended for use in motor vehicles. The licensee is still evaluating the acceptability of using CARB fuel. The licensee's evaluation of the dyed fuel concludes it is acceptable for use in the EDGs. Consequently, the licensee desires to have the option of using dyed fuel.

TS 4.8.1.1.3c.1)d) currently requires that new diesel fuel oil have a "clear and bright appearance with proper color" when tested in accordance with ASTM D4176-82. The ASTM D4176-82 "clear and bright" test is a qualitative test for evaluating water and sediment content. TS 4.8.1.1.3c.1)d) is required to be changed to allow the use of dyed fuel. This proposed amendment would change this requirement to also allow the use of a quantitative measurement of water and sediment content in accordance with ASTM D1796-83.

Therefore, pursuant to 10 CFR 50.90 and 50.91(a)(6), the licensee requests that the license amendment be reviewed on an exigent basis to allow the use of dyed number 2 diesel fuel oil.

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

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 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. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed alternate acceptance criteria and test methodology provide the same level of assurance that fuel oil with water or sediment in excess of the limits for number 2 diesel fuel oil will not be added to the EDG main fuel oil storage tanks.

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

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change is administrative in nature and does not involve any physical alteration to any plant system or change the method by which any safety-related system performs its function.

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

3. Does the change involve a significant reduction in a margin of safety?

The proposed alternate acceptance criteria and test methodology provide the same level of assurance that fuel oil with water or sediment in excess of the limits for number 2 diesel fuel oil will not be added to the EDG main fuel oil storage tanks.

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 15 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 the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the FEDERAL REGISTER a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

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

By October 7, 1994, 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 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407. If a request for a hearing or petition for leave to intervene is filed by the

above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, 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 factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of

a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of 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 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. Petitioner must provide 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 who fails to file such a supplement which satisfies 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, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, 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.


A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Theodore R. Quay: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this FEDERAL REGISTER notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 29, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland, this 2nd day of September 1994.

FOR THE NUCLEAR REGULATORY COMMISSION


James W. Clifford, Senior Project Manager
Project Directorate IV-2
Division of Reactor Projects III/IV
Office of Nuclear Reactor Regulation