

NUCLEAR REGULATORY COMMISSION  
PACIFIC GAS AND ELECTRIC COMPANY  
HUMBOLDT BAY INDEPENDENT SPENT FUEL STORAGE INSTALLATION  
DOCKET NO. 72-27  
NOTICE OF ISSUANCE OF  
AMENDMENT TO MATERIALS LICENSE NO. SNM-2514  
[NRC-2009-0205]

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Issuance of Amendment to Materials License SNM-2514

**DATE:** A request for a hearing must be filed by **[INSERT DATE: 60 DAYS FROM DATE OF PUBLICATION]**

**FOR FURTHER INFORMATION CONTACT:** Shana R. Helton, Senior Project Manager, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards, Mail Stop EBB-3D-02M, U.S. Nuclear Regulatory Commission, Washington, DC, 20555-0001. Telephone: (301) 492-3284; e-mail: [shana.helton@nrc.gov](mailto:shana.helton@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

On November 17, 2005, the U.S. Nuclear Regulatory Commission (NRC) issued NRC Materials License No. SNM-2514 to the Pacific Gas and Electric Company (PG&E) for the Humboldt Bay Independent Spent Fuel Storage Installation (ISFSI), located in Humboldt County, California. The license authorizes PG&E to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials resulting from the operation of the Humboldt Bay Power Plant in an ISFSI at the power plant site for a term of 20 years. The NRC staff also

issued an Environmental Assessment and Finding of No Significant Impact related to the issuance of the initial ISFSI license on November 16, 2005, in accordance with the National Environmental Policy Act, and in conformance with the applicable requirements of 10 CFR Part 51.

On April 20, 2009, PG&E submitted an application to NRC, in accordance with 10 CFR Part 72, requesting an amendment to NRC Materials License No. SNM-2514. PG&E's application requested that the ISFSI license be amended to allow for the relocation of the Humboldt Bay ISFSI quality assurance (QA) requirements from the Diablo Canyon Power Plant Part 50 QA plan to the Humboldt Bay Power Plant Part 50 QA plan.

The current license states that, prior to the termination of the Part 50 license for the Diablo Canyon Power Plant, PG&E would be required to submit a 10 CFR Part 72, Subpart G, compliant QA plan, for the Humboldt Bay ISFSI, to the NRC for approval. The proposed amendment seeks to link this requirement to the termination of the Humboldt Bay Power Plant Part 50 license rather than the termination of the Diablo Canyon Power Plant Part 50 license. The proposed amendment retains the requirement for PG&E to submit a Subpart G compliant QA plan to the NRC for approval, prior to terminating the controlling Part 50 license.

In accordance with 10 CFR 72.16, a Notice of Docketing was published in the Federal Register on May 14, 2009. Pursuant to 10 CFR 72.46, the NRC has approved and issued Amendment No. 2 to Materials License No. SNM-2514 held by PG&E for the receipt, possession, transfer, and storage of spent fuel at the Humboldt Bay ISFSI. Amendment No. 2 authorizes relocating the Humboldt Bay ISFSI QA plan from the Diablo Canyon Power Plant Part 50 QA Program to the Humboldt Bay Power Plant Part 50 QA Plan. Amendment No. 2 is effective as of the date of issuance.

Amendment No. 2 complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. The NRC has made

appropriate findings, as required by the Act and the NRC's rules and regulations in 10 CFR Chapter I, which are set forth in Amendment No. 2. The issuance of Amendment No. 2 satisfied the criteria specified in 10 CFR 51.22(c)(11) for a categorical exclusion. Thus, the preparation of an environmental assessment or an environmental impact statement is not required.

## **II. Opportunity to Request a Hearing**

In accordance with 10 CFR 72.46(b)(2), the staff has determined that this license amendment, requesting the relocation of the Humboldt Bay ISFSI QA plan, does not present a genuine issue as to whether public health and safety will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing on whether the action should be rescinded or modified.

Any person whose interest may be affected by this proceeding and who desires to have this action rescinded or modified must file a request for a hearing and, a specification of the contentions which the person seeks to have litigated in the hearing, in accordance with the NRC E-Filing rule, which the NRC promulgated on August 28, 2007 (72 FR 49139). All documents filed in NRC adjudicatory proceedings, including documents filed by interested governmental entities participating under 10 CFR 2.315(c) and any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, must be filed in accordance with the E-Filing rule. The E-Filing rule requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases, to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the petitioner/ requestor should contact the Office of the Secretary by e-mail at

HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, they can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public website at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m., Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory e-filing system may seek assistance through the "Contact Us" link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC Meta-System Help Desk, which is available between 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday, excluding government holidays. The Meta-System Help Desk can be contacted by telephone at 1-866-672-7640 or by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov).

Participants who believe that they have a good cause for not submitting documents electronically must, in accordance with 10 CFR 2.302(g), file an exemption request with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted 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; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

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

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing

Board, or a Presiding Officer. Participants are requested not to include social security numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The formal requirements for documents contained in 10 CFR 2.304(c)-(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR 2.302(g)(3)), then the requirements for paper documents, set forth in 10 CFR 2.304(b) must be met.

In accordance with 10 CFR 2.309(b), a request for a hearing must be filed by **[INSERT DATE: 60 DAYS FROM THE DATE OF PUBLICATION]**.

In addition to meeting other applicable requirements of 10 CFR 2.309, a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;
2. The nature of the requester's right under the Act to be made a party to the proceeding;
3. The nature and extent of the requester's property, financial or other interest in the proceeding;
4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and

The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

In accordance with 10 CFR 2.309(f)(1), a request for hearing or petition for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted
2. Provide a brief explanation of the basis for the contention;

3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;
4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;
5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and
6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information available at the time the petition is to be filed, such as the application or other supporting document filed by an applicant or licensee, or otherwise available to the petitioner. The requester/petitioner may amend those contentions or file new contentions if there are data or conclusions in the NRC documents that differ significantly from the data or conclusions in the applicant's documents. Otherwise, contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention

proposed by another requester/petitioner must do so, in accordance with the E-Filing rule, within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR 2.309(g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.

### **III. Further information**

The NRC has prepared a Safety Evaluation Report (SER) that documents the staff's review and evaluation of the amendment. In accordance with 10 CFR 2.390 of NRC's "Rules of Practice," final NRC records and documents related to this action, including the application for amendment and supporting documentation and the SER, are available electronically at the NRC's Electronic Reading Room, at: <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS Accession Number for the application, dated April 20, 2009, is ML091190693. The ADAMS Accession Number for the staff's SER is ML092400409.

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact NRC's Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdrr@nrc.gov](mailto:pdrr@nrc.gov).

These documents may also be viewed electronically on the public computers located at NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents, for a fee.



Dated at Rockville, Maryland, this 28<sup>th</sup> day of August, 2009.

FOR THE NUCLEAR REGULATORY COMMISSION

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Licensing Branch  
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