

Diablo Canyon Independent Spent Fuel Storage Installation (ISFSI)
License Amendment Request No. 5

Purpose: Discuss whether amendment request 5 to the Diablo Canyon ISFSI license represents a genuine issue requiring the NRC to give the public an opportunity for a hearing.

Outcome: Form an SFM determination on whether the amendment represents a Genuine Issue.

Process:

Regulatory basis - 72.46, "Public hearings"

- a. 72.46 (b)(1) states, "In connection with each application for an amendment to a license under this part, the Commission shall, except as provided in paragraph (b)(2) of this section, issue or cause to be issued a notice of proposed action and opportunity for hearing in accordance with § 2.105 or § 2.1107 of this chapter ..."
- b. 72.46(b)(2) states, "The Director, Office of Nuclear Material Safety and Safeguards, or the Director's designee may dispense with a notice of proposed action and opportunity for hearing or a notice of hearing and take immediate action on an amendment to a license issued under this part upon a determination that the amendment does not present a genuine issue as to whether the health and safety of the public will be significantly affected. After taking the action, the Director or the Director's designee shall promptly publish a notice in the Federal Register of the action taken and of the right of interested persons to request a hearing on whether the action should be rescinded or modified."

The application requested that Materials License No. SNM-2511 be amended to provide to remove preferential loading references from the TS, make editorial corrections, and improve the readability and human factors usage of the TS.

Amendment request 5 proposed the following changes to the TS:

1. Revise TS 1.1, "Definitions, NONFUEL HARDWARE," to define RCCAs as rod cluster control assemblies to be consistent with standard DC Power Plant terminology (Editorial change),
2. Revise TS 2.1.2, "Uniform and Preferential Fuel Loading," to remove preferential fuel loading references,
3. Revise TS 2.1.3, "Regionalized Fuel Loading," to remove the last sentence which is redundant to TS 2.1.1.a (Editorial change),
4. Revise TS 2.3, "Alternate MPC [Multipurpose Canister]-32 Fuel Selection Criteria," to reference Table 2.1-9 in the definition of "q," and make editorial corrections to improve the reading of the TS,
5. Revise TS 3.1.4, "Supplemental Cooling System," to add a missing letter "B" in Condition B (Editorial change),

6. Revise Tables 2.1-6 and 2.1-9 in TS 2.0, "Approved Contents," to remove blank lines in the tables (Editorial changes), and
7. Revise Table 2.1-10 in TS 2.0, "Approved Contents," to place NOT AUTHORIZED in the table where presently it states NA (Editorial change).

SFM position: This amendment does not present a Genuine Issue.

- a. These are editorial changes and changes needed to conform the DC specific license TS to the later amendments of CoC No. 1014 TS. There are no issues which present a genuine issue regarding impacting the health and safety of the public.
- b. SECY-99-175, "Proposed Rule: 10 CFR Part 72 – Clarification and Addition of Flexibility" forwarded a proposed rulemaking amending Part 72 to eliminate the necessity for repetitious reviews of cask design issues that the Commission previously considered during approval of the cask design, and stated the staff position that "... previously reviewed and approved cask designs should be excluded from the scope of a license hearing."
 - i. Public had the right to comment on the adequacy of the cask design during the Subpart L approval process
 - ii. Public still has the option to petition under 2.206 to raise new safety issues
 - iii. Re-review of cask design issues which have been previously resolved are an unnecessary regulatory burden on applicants causing unnecessary expenditure of staff and hearing board resources

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