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PG&E Letter HIL-20-001

ATTN: Document Control Desk
Director, Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555

10 CFR 73.5

Docket No. 72-27, Materials License Number SNM-2514
Humboldt Bay Independent Spent Fuel Storage Installation
Request for Temporary Exemption from 10 CFR Part 73, Appendix B for the Humboldt Bay Independent Spent Fuel Storage Installation

Dear Commissioners and Staff:

Pursuant to 10 CFR 73.5, "Specific Exemptions," Pacific Gas and Electric Company (PG&E) requests a temporary exemption from the requirements of 10 CFR Part 73, Appendix B, General Criteria for Security Personnel, for the Humboldt Bay Independent Spent Fuel Storage Installation.

The Enclosure contains a detailed description of the proposed exemption, background, justification and environmental assessment.

PG&E is making no new or revised regulatory commitments (as defined by NEI 99-04) in this letter.

Please contact Philippe Soenen, Decommissioning Environmental and Licensing Manager, at (805) 459-3701, with any questions regarding this letter.

Sincerely,

/Maureen Zawalick for James Welsch

James M. Welsch

Enclosure

cc: HBPP Humboldt Distribution
cc/enc: William C. Allen, NRC Project Manager
John B. Hickman, NRC Project Manager
Scott A. Morris, NRC Region IV Administrator

**Request for Temporary Exemption from 10 CFR Part 73, Appendix B,
General Criteria for Security Personnel**

Request for Temporary Exemption from 10 CFR Part 73, Appendix B

1. PROPOSED EXEMPTION

Pursuant to 10 CFR 73.5, "Specific Exemptions," Pacific Gas and Electric Company (PG&E) requests a temporary exemption from 10 CFR Part 73, Appendix B, Section I.E., Physical Requalification, Section II.E, Training Requalification, and Section IV.D, Weapons Requalification for the Humboldt Bay (HB) Independent Spent Fuel Storage Installation (ISFSI).

The purpose of 10 CFR Part 73, Appendix B is to provide general criteria that specify security personnel qualification requirements to ensure that those individuals responsible for security are properly equipped and qualified to execute the job duties prescribed for them. The general criteria included in 10 CFR Part 73, Appendix B establish requirements for the selection, training, equipping, testing, and qualification of individuals who will be responsible for protecting special nuclear materials, nuclear facilities, and nuclear shipments. This exemption request pertains to the requalification frequency requirements included in the specific sections of 10 CFR Part 73, Appendix B described below:

Section I.E

Physical requalification - At least every 12 months, central alarm station operators shall be required to meet the physical requirements of B.1.b of this section, and guards, armed response personnel, and armed escorts shall be required to meet the physical requirements of paragraphs B.1.b (1) and (2), and C of this section....

Section II.E

Requalification - Security personnel shall be requalified at least every 12 months to perform assigned security-related job tasks and duties for both normal and contingency operations. Requalification shall be in accordance with the NRC-approved licensee training and qualifications plan....

Section IV.D

Requalification - Individuals shall be weapons requalified at least every 12 months in accordance with the NRC approved licensee training and qualifications plan, and in accordance with the requirements stated in A, B, and C of this section.

PG&E maintains a Training and Qualification (T&Q) Program (Reference 6.8) for the security organization to implement the requirements of 10 CFR Part 73, Appendix B, as applicable. As a result of the current limitations surrounding the pandemic associated with the Coronavirus Disease 2019 (COVID-19), there is limited access to public facilities, state and federal shelter-in-place orders have been issued, and additional

risks associated with social interactions, that challenge PG&E's ability to comply with all requirements included in the T&Q Program.

Due to the impacts of the COVID-19 Public Health Emergency (PHE), most medical facilities are not seeing patients for routine visits, such as physicals. In addition to the challenges above, requiring PG&E personnel to enter a medical facility imposes undue pandemic-related health risks for the employee, employee's family, medical staff and coworkers. In order to meet the requalification requirements of the HB ISFSI T&Q Program, face-to-face appointments are necessary. Based on the information above, PG&E is requesting a temporary exemption from the requirements of 10 CFR Part 73, Appendix B, Section I.E, specifically for the 12-month physical requalification requirement (Reference 6.8, Section 7.4.4).

In order to protect the public from the spread of COVID-19, the Centers for Disease Control (CDC) recommends avoiding close contact (within about 6 feet) between individuals (Reference 6.4). This recommendation of avoiding close contact presents challenges associated with satisfying portions of the job specific training requalification requirements included in the T&Q program. The potential unpredictable spread of COVID-19 to specific qualified training personnel could also present challenges in the near future. Based on the information above, PG&E is requesting a temporary exemption from the requirements of 10 CFR Part 73, Appendix B, Section II.E, specifically for the 12-month requalification requirements for certain job specific tasks (Reference 6.8, Section 7.4.3.a).

The guards, armed response personnel, and armed escorts requiring weapons training to perform assigned security related job tasks at the HB ISFSI, demonstrate their ability to perform these tasks at a local public facility. This local facility is not controlled by PG&E, and based on the current local state of emergency and shelter in place orders (Reference 6.3) could be shutdown at any time. In addition, consistent with the recommendation by the CDC, due to the current concerns with the COVID-19 PHE, PG&E seeks to minimize the risk to the security organization and the public by minimizing the amount of social interaction. Therefore, PG&E is requesting a temporary exemption from the requirements of 10 CFR Part 73, Appendix B, Section IV.D, specifically for the 12-month weapons requalification training frequency requirement (Reference 6.8, Section 7.4.2.b).

PG&E is requesting that the duration of the temporary exemptions be tied to the end of the pandemic associated with the COVID-19 PHE. The end of the pandemic would be signified by suspension of the emergency declaration at the local, state and federal level. Based on the information above, PG&E is requesting the following temporary exemptions:

Temporary Exemption	Duration
<p><u>10 CFR Part 73, Appendix B, Section I.E.</u> <i>Physical requalification - At least every 12 months, central alarm station operators shall be required to meet the physical requirements of B.1.b of this section, and guards, armed response personnel, and armed escorts shall be required to meet the physical requirements of paragraphs B.1.b (1) and (2), and C of this section....</i></p>	<p>PG&E will complete the physical requalification at the first reasonable opportunity, and no later than 6 months¹ following the suspension of the emergency declaration at the local, state, and federal level.</p>
<p><u>10 CFR Part 73, Appendix B, Section II.E.</u> <i>Requalification-Security personnel shall be requalified at least every 12 months to perform assigned security-related job tasks and duties for both normal and contingency operations. Requalification shall be in accordance with the NRC-approved licensee training and qualifications plan....</i></p>	<p>PG&E will complete any delayed training at the first reasonable opportunity, and no later than 3 months following the suspension of the emergency declaration at the local, state, and federal level.</p>
<p><u>10 CFR Part 73, Appendix B, Section IV.D</u> <i>Requalification - Individuals shall be weapons requalified at least every 12 months in accordance with the NRC approved licensee training and qualifications plan, and in accordance with the requirements stated in A, B, and C of this section</i></p>	<p>PG&E will complete the weapons training at the first reasonable opportunity, and no later than 3 months following the suspension of the emergency declaration at the local, state, and federal level.</p>

2. BACKGROUND

On January 31, 2020, the United States Department of Health and Human Services declared a public health emergency for the United States to aid the nation's healthcare community in responding to the COVID-19 outbreak (Reference 6.5). Subsequent to the above declaration the following additional events related to the COVID-19 virus have taken place:

- March 4, 2020, California Governor declared a State of Emergency (Reference 6.1).
- March 11, 2020, COVID-19 outbreak was characterized as a pandemic by the World Health Organization. (Reference 6.6).

¹ The extended duration of this temporary exemption is based on a potential inundation on medical facilities following suspension of the emergency declaration in the local area.

- March 11, 2020, Humboldt County Health Officer declared a Local Health Emergency (Reference 6.7).
- March 19, 2020, California Governor issued Executive Order-N33-20, which ordered all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors (Reference 6.2).
- March 20, 2020, Humboldt County Health Officer issued Shelter in Place Order (Reference 6.3).

As a result of the current limitations surrounding the pandemic associated with the COVID-19 PHE there is limited access to public facilities, state and federal shelter in place orders, and additional risks associated with social interactions, that challenge PG&E's ability to comply with all requirements included in the T&Q Program. Therefore, PG&E is requesting temporary exemptions as described in Section 1, for the security organization at the HB ISFSI, located in Eureka County, California.

3. BASIS FOR EXEMPTION

The specific conditions for granting an exemption from regulations in 10 CFR Part 73, are set forth in 10 CFR 73.5, Specific Exemptions. In accordance with 10 CFR 73.5, the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest. As discussed below, this temporary exemption request satisfies the provisions of 10 CFR 73.5.

3.1 The Temporary Exemption Request is Authorized by Law

The NRC's authority to grant an exemption from its regulations in 10 CFR Part 73 is established by law as discussed in 10 CFR 73.5. Therefore, granting an exemption is explicitly authorized by the NRC's regulations.

3.2 The Temporary Exemption Request Will Not Endanger Life or Property or the Common Defense and Security

These temporary exemptions to allow an extension of the requalification frequency for medical physicals, certain job-specific training, and weapons training will not endanger life or property or the common defense and security. Individuals within the security organization that require physical, job-specific, and weapons training requalification have undergone the initial training in accordance with the HB ISFSI T&Q Program and 10 CFR Part 73, Appendix B. The individuals that these exemptions apply to have proven their physical ability, knowledge and, proficiency in the use of their assigned weapon, prior to initial assignment and during any subsequent requalification training. As a

compensatory measure for the physical requalification, PG&E will require each individual, as applicable, within the security organization to be examined by a licensed medical physician through an internet based visual examination (e.g. telemedicine application) prior to the current expiration of the qualification. Additionally, required training that can be performed in accordance with the T&Q Program that complies with the current CDC recommendations will be performed. Requalification requirements that are extended, will be entered into the HB ISFSI corrective action program prior to the expiration date to ensure they are tracked for completion at a later date. In addition, in accordance with current procedures, PG&E will continue to ensure that any individual within the security organization who self-declares their inability to perform their current assigned tasks, will be removed from duty. These temporary exemptions will contribute to the common goal of protecting the HB ISFSI facility, by helping preserve the health and safety of the current qualified security force. Therefore, this temporary exemption request will not endanger life or property or the common defense and security.

3.3 The Temporary Exemption Request is in the Public Interest

A temporary exemption to allow an extension of the requalification frequency for medical physicals, certain job-specific training, and weapons training is in the interest of the public. As described in References 6.2 and 6.3, both the Eureka County Health Officials and the Governor of California have issued shelter in place orders to protect public health and safety. In addition, the CDC recommends avoiding close contact (within about 6 feet) by putting distance between individuals (Reference 6.4). These orders and recommendations have a common goal of limiting social contact in order to disrupt the spread of the virus.

Requiring PG&E personnel to enter any type of public facility or engage in close social interactions under the current conditions, imposes additional health risks for employees, employee's family, public facility staff, and coworkers, due to the COVID-19 PHE. Regarding medical facilities, the California Governor's Executive Order N-33-20 states, "The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them." (Reference 6.2) In addition, the CDC states that the best way to prevent illness is to avoid being exposed to the virus (Reference 6.4). While precautions can be taken, each additional interaction among individuals increases the risk of spreading COVID-19. Therefore, this temporary exemption request is in the interest of the public.

4. ENVIRONMENTAL ASSESSMENT

Pursuant to 10 CFR 51.22(c)(25), an exemption from NRC regulations is subject to a categorical exclusion from the preparation of an environmental assessment or an environmental impact statement if: (i) there is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve: ... (E) Education, training, experience, qualification, requalification or other employment suitability requirements.

As demonstrated below, each of these provisions in 10 CFR 51.22(c)(25) is satisfied by this exemption request. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the proposed exemptions.

4.1 These temporary exemptions do not involve a significant hazards consideration.

As provided in 10 CFR 50.92, an action involves a significant hazards consideration if it would: (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 demonstrated below, none of these criteria apply to these exemptions.

The proposed temporary exemptions would extend the requalification frequency for medical physicals, certain job-specific training, and weapons training for the applicable individuals within the security organization at the HB ISFSI. The temporary exemptions do not involve any physical change in the facility or in the procedures governing operation of the facility, and does not alter the design basis. Therefore, the exemption does not involve an increase in the probability or consequences of an accident, create the possibility of a new or different kind of accident, or a reduction in a margin of safety.

4.2 These temporary exemptions do not involve a significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

These temporary exemptions do not involve any physical change in the facility or in the procedures governing operation of the facility. Therefore, these temporary exemptions do not involve a significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

4.3 These temporary exemptions do not involve a significant increase in individual or cumulative public or occupational radiation exposure.

These temporary exemptions do not involve any physical change in the facility or in the procedures governing operation of the facility. Therefore, these temporary exemptions do not involve a significant increase in individual or cumulative public or occupational radiation exposure.

4.4 These temporary exemptions do not involve a significant construction impact.

These temporary exemptions do not involve any physical change in the facility or the manner in which the facility will be constructed. Therefore, these temporary exemptions do not involve a significant construction impact.

4.5 These exemptions do not involve a significant increase in the potential for or consequences from radiological accidents.

These temporary exemptions do not involve any physical change in the facility or in the procedures governing operation of the facility. Therefore, these temporary exemptions do not involve a significant increase in the potential for or consequences from radiological accidents.

4.6 The requirements from which these exemptions are sought involve education, training, experience, qualification, requalification, or other employment suitability requirements.

These temporary exemptions pertain to extending the requalification frequency for medical physicals, certain job-specific training, and weapons training required by 10 CFR Part 73, Appendix B. Therefore, the request involves the activities described in 10 CFR 51.22(c)(25)(vi)(E).

5. CONCLUSION

Pursuant to the provisions of 10 CFR 73.5, PG&E is requesting a temporary exemption from 10 CFR Part 73, Appendix B, Sections I.E., II.E, and IV.D for the HB ISFSI. Based on the considerations discussed above, the requested temporary exemptions are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

6. REFERENCES

- 6.1 Office of Governor Gavin Newsom, "Governor Newsom Declares State of Emergency to Help State Prepare for Broader Spread of COVID-19," March 04,

- 2020, <https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/>, date accessed April 6, 2020.
- 6.2 Executive Department State of California, Executive Order N-33-20, dated March 19, 2020, <https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>, date accessed April 6, 2020.
- 6.3 Humboldt County Department of Health and Human Services, "Order of the Health Officer of the County of Humboldt Directing All Individuals Living in the County to Shelter at Their Place of Residence Except that they May Leave to Provide or Receive Certain Essential Services...", March 20, 2020, <https://humboldt.gov/DocumentCenter/View/84635/Shelter-In-Place-Order-signed-03192020?bidId=>, date accessed April 6, 2020.
- 6.4 Centers for Disease Control, Coronavirus Disease 2019 (COVID-19), Protect Yourself, page last reviewed April 4, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>, date accessed April 7, 2020.
- 6.5 Proclamations, "Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, issued on March 13, 2020 <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>, date accessed April 6, 2020.
- 6.6 World Health Organization, "WHO Director-General's opening remarks at the media briefing on COVID-19 – 11 March 2020," dated March 11, 2020 <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>, date accessed April 6, 2020.
- 6.7 Humboldt County Department of Health and Human Services news release, "Public Health Officials Declare Emergency Announce Local Testing Capabilities," dated March 11, 2020, <https://humboldt.gov/DocumentCenter/View/84483/20200311---News-Release---COVID-19-Emergency-Declaration-PDF>, dated accessed April 6, 2020.
- 6.8 Humboldt Bay ISFSI Procedure HBI-L5, HB ISFSI Training and Qualification Plan (Guard Training Plan), Revision 2, dated April 30, 2020.