

NUCLEAR REGULATORY COMMISSION**[Docket No. 72-26]****Pacific Gas and Electric Company; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding a Proposed Exemption**

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from the provisions of 10 CFR 72.72(d) to Pacific Gas and Electric Company (PG&E or applicant). The requested exemption would allow PG&E to maintain a single set of spent fuel, high-level radioactive waste, and reactor-related Greater than Class C (GTCC) waste records in accordance with the requirements of its NRC-approved Quality Assurance program, which satisfies the criteria of 10 CFR part 50, appendix B, for the Independent Spent Fuel Storage Installation (ISFSI) at the Diablo Canyon Power Plant (DCPP) in San Luis Obispo County, California.

Environmental Assessment (EA)

Identification of Proposed Action: In its application for an ISFSI license, submitted on December 21, 2001, PG&E requested an exemption from the requirement in 10 CFR 72.72(d); which states in part that, "Records of spent fuel, high-level radioactive waste, and reactor-related GTCC waste containing special nuclear material meeting the requirements in paragraph (a) of this section must be kept in duplicate. The duplicate set of records must be kept at a separate location sufficiently remote from the original records that a single event would not destroy both sets of records."

The proposed action before the Commission is whether to grant this exemption pursuant to 10 CFR 72.7.

Need for the Proposed Action: The applicant stated that ISFSI spent-fuel, high-level radioactive waste, and reactor-related GTCC waste records will be maintained in a manner consistent with the records of the DCPP, which are stored in accordance with the NRC-approved Quality Assurance (QA) program. The approved QA program for the DCPP complies with the requirements established in 10 CFR part 50, appendix B, which incorporates by reference the specific recordkeeping requirements in 10 CFR 50.71(d)(1). PG&E did not request exemption from the records retention period requirements of 10 CFR 72.72(d). The applicant seeks to provide consistency in recordkeeping practices for the

records related to the proposed DCPP ISFSI and those records currently maintained under the DCPP QA program. The exemption would also preclude the need for PG&E to construct and operate a separate, second records storage facility to store a duplicate set of spent fuel, high-level radioactive waste, and reactor-related GTCC waste records.

In its exemption request, PG&E indicated that the NRC-approved QA program for the DCPP meets the provisions of ANSI N45.2.9-1974. The requirements in ANSI N45.2.9-1974 have been endorsed by the NRC as an acceptable method of satisfying the recordkeeping requirements of 10 CFR part 50, appendix B, which states, in part, that "[c]onsistent with applicable regulatory requirements [including 10 CFR 50.71(d)(1)], the applicant shall establish requirements concerning record retention, such as duration, location, and assigned responsibility." Further requirements for the maintenance of nuclear power plant records are provided in 10 CFR 50.71(d)(1), which states, in part, that, "The licensee shall maintain adequate safeguards against tampering with and loss of records." ANSI N.45.2.9-1974 also satisfies the requirements of 10 CFR 72.72 by providing for adequate maintenance of records regarding the identity and history of the spent fuel in storage. Such records would be subject to and need to be protected from the same types of degradation mechanisms or loss as nuclear power plant Quality Assurance records.

Environmental Impacts of the Proposed Action: An exemption from the requirement to store a duplicate set of ISFSI records at a separate location has no impact on the environment. Storage of records does not change the methods by which spent fuel will be handled and stored at the DCPP ISFSI and does not change the amount of effluents, radiological or non-radiological, associated with the ISFSI.

Alternative to the Proposed Action: As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Agencies and Persons Consulted: On August 12, 2003, Ms. Barbara Byron, Nuclear Policy Advisor for the California Energy Commission, was contacted regarding the environmental assessment for the proposed action and had no comments. The NRC staff has determined that a consultation under

Section 7 of the Endangered Species Act is not required because the proposed action is administrative/procedural in nature and will not affect listed species or critical habitat. The NRC staff has also determined that the proposed action is not a type of activity having the potential to cause effects on historic properties because it is an administrative/procedural action. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting the exemption from 10 CFR 72.72(d), so that PG&E may store spent fuel records for the proposed ISFSI in a single records storage facility, in accordance with its NRC-approved Quality Assurance program (which satisfies the criteria of 10 CFR part 50, appendix B, and 10 CFR 50.71(d)(1)), will not significantly impact the quality of the human environment. Accordingly, the Commission has determined that a Finding of No Significant Impact is appropriate, and that an environmental impact statement for the proposed exemption is not necessary.

For further details with respect to this exemption request, see the PG&E ISFSI license application, and the accompanying Safety Analysis Report, dated December 21, 2001. The request for exemption was docketed under 10 CFR part 72, Docket No. 72-26. These documents are available for public inspection at the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD, or from the publicly available records component of NRC's Agencywide Documents Access and Management System (ADAMS). These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. If there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail at pdr@nrc.gov.

Dated at Rockville, Maryland, this 2nd day of October, 2003.