



7590-01-P

## **NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. 50-275 and 50-323; NRC-2020-0207]**

**Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Plant, Units 1 and 2**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment application; opportunity to request a hearing and to petition for leave to intervene.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) approved a request by Pacific Gas and Electric Company (PG&E, the licensee) for amendments to Facility Operating License Nos. DPR-80 and DPR-82, issued to the licensee for operation of the Diablo Canyon Nuclear Power Plant (Diablo Canyon), Units 1 and 2, located in San Luis Obispo County, California. The amendments provide a new Technical Specification (TS) 3.7.5, "Auxiliary Feedwater (AFW) System," Condition G, to address a one-time planned Diablo Canyon, Unit 1, Cycle 22, AFW system alignment for which current TS 3.7.5 would require shutdown.

**DATES:** A request for a hearing or petition for leave to intervene must be filed by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Please refer to Docket ID **NRC-2020-0207** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2020-0207**. Address questions about Docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; email:

Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System**

**(ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

**FOR FURTHER INFORMATION CONTACT:** Samson S. Lee, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-3168, e-mail: [Samson.Lee@nrc.gov](mailto:Samson.Lee@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The NRC issued amendments to Facility Operating License Nos. DPR-80 and DPR-82, issued to PG&E for operation of Diablo Canyon, Units 1 and 2. The amendments avoid an unnecessary plant shutdown during the expected time needed to perform potential repairs to the Unit 1 AFW system piping that PG&E conservatively anticipates may be identified during the Diablo Canyon, Unit 1, Cycle 22, planned inspections to the AFW system. Specifically, the amendments provide a new TS 3.7.5, "Auxiliary Feedwater (AFW) System," Condition G, to allow operation of Diablo Canyon, Unit 1, for up to 7 days when the AFW system is aligned in a manner for which current TS 3.7.5 would require shutdown. The amendments are only for Cycle 22 during repair of the AFW piping. The NRC staff finds that the application for the license amendments complies with the requirements of the Atomic Energy Act of 1954, as amended, and the

NRC's regulations. The NRC staff's evaluation may be obtained and examined in ADAMS under Accession No. ML20235R635.

In its license amendment request dated August 12, 2020, the licensee requested that the proposed amendments be processed by the NRC on an exigent basis in accordance with the provisions in section 50.91(a)(6) of title 10 of the *Code of Federal Regulations* (10 CFR). The licensee provided the following information to explain the exigency of the amendments. Because of localized corrosion identified on Diablo Canyon, Unit 2, AFW piping during a recent Diablo Canyon, Unit 2, maintenance outage, the licensee intends to perform inspections of Diablo Canyon, Unit 1, AFW piping in the near term to ensure that Diablo Canyon, Unit 1, is not similarly affected. If similar below-minimum pipe wall thicknesses are found in the Unit 1 AFW system piping and elbows that were found in Unit 2, based on the estimated time-to-repair gained from the Unit 2 repair, it is likely that the current TS 3.7.5 Required Actions B.1 or D.1 would result in the required shutdown of Unit 1. The TS 3.7.5 change would avoid an unnecessary plant shutdown during the expected time needed to perform the potential repairs and associated post-maintenance inspections and testing to the Unit 1 AFW system piping. The licensee stated that it has assessed the potential extent of the Unit 1 AFW system piping repairs based on the required repairs for Unit 2 and is making its best efforts to make a timely application and has not created the exigency.

The NRC staff considered the circumstances and found exigent circumstances exist in that a licensee and the Commission must act quickly because if they do not, the AFW inspection results could cause a plant shutdown, and that time did not permit the Commission to publish a *Federal Register* notice allowing 30 days for prior public comment. The NRC staff also determined that the amendments involved no significant hazards considerations. Under the provisions in 10 CFR 50.91(a)(6), the NRC notifies the public in one of two ways when exigent circumstances exist: (1) by issuing a *Federal*

*Register* notice providing an opportunity for hearing and allowing at least 2 weeks from the date of the notice for prior public comments; or (2) by using local media to provide reasonable notice to the public in the area surrounding the licensee's facility. In this case, the NRC used local media and published a public notice in the *San Luis Obispo News Tribune*, located in San Luis Obispo, California (<https://www.sanluisobispo.com/>), a newspaper local to the licensee's facility, on August 16, 2020; August 17, 2020; and August 18, 2020.

The licensee's supplements dated August 16, 2020; August 18, 2020; and August 20, 2020, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the *San Luis Obispo News Tribune*, located in San Luis Obispo, California (<https://www.sanluisobispo.com/>), on August 16, 2020; August 17, 2020; and August 18, 2020. Public comments were received and addressed in the NRC staff's evaluation.

## **II. Opportunity to Request a Hearing and Petition for Leave to Intervene**

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at <https://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following

general requirements for standing: (1) the name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for 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 the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) 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. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed

after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the “Electronic Submissions (E-Filing)” section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish 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 would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner’s interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the “Electronic Submissions (E-Filing)” section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries.

Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

### **III. Electronic Submissions (E-Filing)**

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at <https://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at

[hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing 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 E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's 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 document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before

adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <https://www.nrc.gov/site-help/e-submittals.html>, by e-mail to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and 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, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents 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. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>,

unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click “cancel” when the link requests certificates and you will be automatically directed to the NRC’s electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. 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.

#### **IV. Availability of Documents**

The following table identifies the documents cited in this document and related to the issuance of the amendments. These documents are available for public inspection online through ADAMS at <https://www.nrc.gov/reading-rm/adams.html>.

| <b>DOCUMENT</b>                                                                                                                                                                                                                                | <b>ADAMS ACCESSION NO.</b> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| Diablo Canyon Nuclear Power Plant, Units 1 and 2 Issuance of Amendment Nos. 236 and 238 Re: Revision to Technical Specification 3.7.5, ‘Auxiliary Feedwater (AFW) System,’ EXIGENT CIRCUMSTANCES (EPID L-2020-LLA-0176), dated August 31, 2020 | ML20235R635                |
| Diablo Canyon Units 1 and 2, License Amendment Request 20-01, Exigent Request for Revision to Technical Specification 3.7.5, ‘Auxiliary Feedwater System,’ dated August 12, 2020                                                               | ML20225A303                |
| Diablo Canyon request for additional information: Exigent License Amendment Request for Application to provide a new Technical Specification 3.7.5, ‘Auxiliary Feedwater System,’ Condition G (EPID L-2020-LLA-0176), dated August 14, 2020    | ML20230A073                |

| <b>DOCUMENT</b>                                                                                                                                                                                                                                                                                              | <b>ADAMS ACCESSION NO.</b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| Response to NRC Request for Additional Information Regarding "License Amendment Request 20-01, Exigent Request for Revision to Technical Specification 3.7.5, 'Auxiliary Feedwater System,'" dated August 16, 2020                                                                                           | ML20229A016                |
| Diablo Canyon additional request for additional information: Exigent License Amendment Request for application to provide a new Technical Specification 3.7.5, 'Auxiliary Feedwater System,' Condition G EPID L-2020-LLA-017, dated August 17, 2020                                                          | ML20231A237                |
| Diablo Canyon Units 1 and 2 Response to NRC Request for Additional Information Regarding "License Amendment Request 20-01, Exigent Request for Revision to Technical Specification 3.7.5, 'Auxiliary Feedwater System,'" dated August 18, 2020                                                               | ML20231A838                |
| Diablo Canyon additional request for additional information: Exigent License Amendment Request for application to provide a new Technical Specification 3.7.5, 'Auxiliary Feedwater System,' Condition G EPID L-2020-LLA-017 request for additional information, dated August 20, 2020                       | ML20234A242                |
| Diablo Canyon, Units 1 and 2 - Response to Additional NRC Request for Additional Information Regarding "License Amendment Request 20-01, Exigent Request for Revision to Technical Specification 3.7.5, 'Auxiliary Feedwater System,' response to request for additional information," dated August 20, 2020 | ML20233B187                |

Dated: September 3, 2020

For the Nuclear Regulatory Commission.

**Jennifer L. Dixon-Herrity,**

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[FR Doc. 2020-19899 Filed: 9/8/2020 8:45 am; Publication Date: 9/9/2020]