

regard, the parties to this proceeding will be contacted in the near future by the Board's law clerk for purposes of setting up a scheduling conference.<sup>11</sup> The public is invited to attend any oral argument, pre-hearing conference, or evidentiary hearing unless otherwise ordered by the Commission.<sup>12</sup> Notices of these sessions will be published in the **Federal Register** and/or made available to the public at the NRC Public Document Room, located at One White Flint, 11555 Rockville Pike (first floor), Rockville, Maryland, and through the NRC Web site, <http://www.nrc.gov>.

The Administrative Dispute Resolution Act of 1996 (ADR Act)<sup>13</sup> encourages the use of alternative dispute resolution by Federal agencies.<sup>14</sup> The parties are encouraged to explore voluntary processes, including settlement talks with or without a neutral, to resolve the issues in this case. Upon request, a settlement judge from the ASLBP could be appointed.<sup>15</sup>

Additionally, as provided in 10 CFR 2.315(a), any person not a party to the proceeding may submit a written limited appearance statement setting forth his or her position on the issues in this proceeding. These statements do not constitute evidence but may assist the Board and/or parties in defining the issues being considered. Persons wishing to submit a written limited appearance statement should send it by mail to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. A copy of the statement should also be served on the Chairman of this Atomic Safety and Licensing Board by mail to the Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. At a later date, the Board may entertain oral limited appearance statements at a location or locations in the vicinity of the Prairie Island facility. Notice of any oral limited appearance sessions will be published in the **Federal Register** and/or made available to the public at the NRC Public Document Room and on the NRC Web site, <http://www.nrc.gov>.

Documents relating to this proceeding are available for public inspection at the NRC's Public Document Room or electronically from the publicly

available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC Public Document Room reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Rockville, Maryland, January 16, 2009.

It is so ordered.

For the Atomic Safety and Licensing Board<sup>16</sup>

**William J. Froehlich,**

*Chairman Administrative Judge.*

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**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50-362; NRC-2009-0023]**

### **Southern California Edison Company; San Onofre Nuclear Generating Station, Unit 3; Exemption**

#### **1.0 Background**

Southern California Edison Company (SCE, the licensee) is the holder of Facility Operating License No. NPF-15, which authorizes operation of San Onofre Nuclear Generating Station, Unit 3 (SONGS 3). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor located in San Diego County, California.

#### **2.0 Request/Action**

Title 10 of the *Code of Federal Regulations* (10 CFR), Part 74, Section 74.19(c), requires that each licensee who is authorized to possess special nuclear material (SNM), at any one time and site location, in a quantity greater than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, shall conduct a physical inventory of all SNM in its possession under license at intervals not to exceed 12 months.

By application dated January 14, 2008, the licensee requested an exemption from certain requirements in Section 74.19(c) for SONGS 3. The

exemption would allow SCE not to perform the physical inventory for 12 irradiated fission chambers removed from SONGS 3 that are stored in the plant.

#### **3.0 Discussion**

Pursuant to 10 CFR 74.7, 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, when (1) the exemptions are authorized by law, will not present undue risk to public health and safety, and, will not endanger life or property or the common defense and security, and (2) when special circumstances are present. These special circumstances include actions to maintain exposures to radiation as low as is reasonably achievable (ALARA).

#### *Authorized by Law*

This exemption would exempt the licensee from the requirements of 10 CFR 74.19(c) for the physical inventory requirements of 12 irradiated fission chambers removed from SONGS 3 in 1995 and in storage. As stated above, 10 CFR 74.7 allows the NRC to grant exemptions from the requirements of 10 CFR part 74. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

#### *No Undue Risk to Public Health and Safety*

The underlying purposes of 10 CFR 74.19 is for licensees to conduct a physical inventory of special nuclear material in its possession at periodic intervals and to retain records associated with each physical inventory. No changes in the physical or administrative controls are associated with the special nuclear materials related to this request. The licensee will continue to conduct an annual inventory of the 12 fission chambers by visual verification to confirm that the high integrity container (HIC), where the 12 fission chambers are stored, remains in its storage location and the container is structurally intact. In addition, the visual inventory will be augmented to include verification that the tamper-indicating device installed in November 2007 on the HIC has not been disturbed. Based on the above, no new accident precursors are created with the exemption from this requirement. Thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated

<sup>11</sup> *Id.* § 2.332; see also 10 CFR Part 2, App. B (II) (Model Milestones for Hearings Conducted under 10 CFR Part 2, Subpart L).

<sup>12</sup> 10 CFR 2.328.

<sup>13</sup> 5 U.S.C. 571-584.

<sup>14</sup> Public Law No. 104-320, § 4(a), 110 Stat. 3871 (1996).

<sup>15</sup> See 10 CFR 2.338(b).

<sup>16</sup> Copies of this order were sent this date by the agency's E-Filing system to counsel for (1) Applicant, Northern States Power Company, (2) Petitioner, Prairie Island Indian Community, and (3) NRC Staff.

accidents are not increased. Therefore, there is no undue risk to public health and safety.

*Will Not Endanger Life or Property or Common Defense and Security*

Physical location and administrative controls associated with the storage of the 12 irradiated fission chambers are adequately controlled and accounted for by the licensee. Therefore, the exemption will not endanger life or property or common defense and security.

*Otherwise in the Public Interest*

The licensee pointed out that the ALARA requirement in 10 CFR Part 20, "Standards for protection against radiation," requires "\* \* \* making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken, \* \* \*" This request for an exemption from the physical inventory requirements of 10 CFR 74.19(c) would relieve SCE of potentially significant occupational radiation exposures with no decrease in quality and safety. Therefore, the exemption is in the public interest and consistent with the special circumstances of maintaining exposures ALARA.

**4.0 Conclusion**

Accordingly, the Commission has determined that, pursuant to 10 CFR 74.7, the exemption is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants SCE an exemption to SONGS 3 from the requirements of 10 CFR 74.19(c) for physical inventory for 12 irradiated fission chambers removed from SONGS 3 in 1995 and in storage. In accordance with the licensee's letter dated January 14, 2008, SCE will continue to conduct an annual inventory of the 12 fission chambers by visual verification to confirm that the HIC, where the 12 fission chambers are stored, remains in its storage location and the container is structurally intact. In addition, the visual inventory will be augmented to include verification that the tamper-indicating device installed in November 2007 on the HIC has not been disturbed. The annual physical inventory of all other SNM will continue to be performed per the requirements of 10 CFR 74.19(c).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the

human environment (73 FR 79936, dated December 30, 2008).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 15th day of January 2009.

For the Nuclear Regulatory Commission

**Joseph G. Giitter,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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**OFFICE OF THE UNITED STATES  
TRADE REPRESENTATIVE**

**Request for Comments and Notice of Public Hearing Concerning Proposed Trans-Pacific Partnership Free Trade Agreement With Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru and Vietnam**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of intent to initiate negotiations on a Trans-Pacific Partnership (TPP) free trade agreement with Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru and Vietnam, request for comments, and notice of public hearing.

**SUMMARY:** The United States intends to initiate negotiations on a Trans-Pacific Partnership free trade agreement with Singapore, Chile, New Zealand, Brunei Darussalam, Australia, Peru and Vietnam. The interagency Trade Policy Staff Committee (TPSC) will convene a public hearing and seek public comment to assist the United States Trade Representative (USTR) in amplifying and clarifying negotiating objectives for the proposed agreements and to provide advice on how specific goods and services and other matters should be treated under the proposed agreement.

**DATES:** Persons wishing to testify orally at the hearing must provide written notification of their intent to testify, as well as their testimony, by February 25, 2009. A hearing will be held in Washington, DC, on March 4, 2009, and will continue as necessary on subsequent days. Written comments are due by noon, March 11, 2009.

**ADDRESSES:** Notices of intent to testify, testimony and/or written comments should be submitted electronically via the Internet at <http://www.regulations.gov>. For alternatives to on-line submissions please contact Gloria Blue, Executive Secretary, Trade

Policy Staff Committee, at (202) 395-3475.

**FOR FURTHER INFORMATION CONTACT:** For procedural questions concerning written comments or participation in the public hearing, contact Gloria Blue, Executive Secretary, Trade Policy Staff Committee, at (202) 395-3475. All other questions regarding the TPP should be directed to Douglas Bell, Deputy Assistant USTR for Southeast Asia and the Pacific, at (202) 395-6813.

**SUPPLEMENTARY INFORMATION:**

**1. Background**

The process followed for notifying and consulting on the TPP negotiation is based on the procedures outlined under section 2104 of the Trade Act of 2002 (Trade Act) (19 U.S.C. 3804). Under these procedures, the President must provide the Congress with at least 90 calendar days written notice of his intent to enter into negotiations and identify the specific objectives for the negotiation and, before and after submission of the notice, consult with appropriate Congressional committees regarding the negotiations. Under the Trade Act of 1974, as amended, the President must (i) afford interested persons an opportunity to present their views regarding any matter relevant to any proposed agreement, (ii) designate an agency or inter-agency committee to hold a public hearing regarding any proposed agreement, and (iii) seek the advice of the U.S. International Trade Commission (ITC) regarding the probable economic effects on U.S. industries and consumers of the removal of tariffs and non-tariff barriers on imports pursuant to any proposed agreement.

On September 22, 2008 (for Singapore, Chile, New Zealand and Brunei Darussalam) and December 30, 2008 (for Australia, Peru and Vietnam), after consulting with relevant Congressional committees, the USTR notified the Congress that the President intends to initiate free trade agreement negotiations with these Trans-Pacific countries and identified specific objectives for the negotiations. In addition, the USTR is requesting that the ITC provide its advice on probable economic effects of the free trade agreement. This notice solicits views from the public on these negotiations and provides information on a hearing that will be conducted based on the requirements of the Trade Act of 1974.

**2. Public Comments and Testimony**

To assist the Administration as it continues to develop its negotiating objectives for the proposed agreements,