



**Pacific Gas and  
Electric Company®**

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January 30, 2013

Texas Low-Level Radioactive Waste Disposal Compact Commission (TLLRWDC)  
333 Guadalupe St. #3-240  
Austin, TX 78701

**TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT COMMISSION  
APPLICATION FOR IMPORTATION OF NONPARTY LOW-LEVEL RADIOACTIVE  
WASTE – SECOND YEAR**

Dear Commissioners:

Pacific Gas and Electric (PG&E) is currently decommissioning its Humboldt Bay Nuclear Power Plant (HBPP). PG&E completed four Class B & C waste shipments to Texas in 2012. The opportunity to complete waste shipments in 2013 is very important toward completing out decommissioning goals. However, project delays have caused us to reevaluate our planned shipments. Prior to April 26, 2012 we now plan to ship one HIC containing resin and one liner containing hardware. There were four other liners containing hardware previously planned for shipment prior to April 26 that will now ship in the second year. In addition, there is one additional shipment containing control rod blades planned for after April 26. Depending on project conditions the control blades may be shipped in one 120.3 cubic foot liner or two 56 cubic foot liners. This information constitutes a change from information supplied in December, 2012 for waste shipments to Texas.

Along with a copy of the Southwestern Low-Level Radioactive Waste Commission Exportation Policy attached is our Import petition for wastes expected to be shipped to Texas between April 26, 2013 and the end of the 2013 calendar year.

Should you require additional information please contact John Kristofzski at 707/444-0880.

Sincerely,

Loren Sharp  
Plant Director  
Humboldt Bay Power Plant  
1000 King Salmon Road  
Eureka, CA 95503

Enclosures (2)

Figure: 31 TAC §675.23(f)(1)

ANNEX A

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL  
COMPACT COMMISSION

APPLICATION FOR IMPORTATION OF NONPARTY LOW-LEVEL RADIOACTIVE WASTE

(NOTE: PURSUANT TO TEXAS HEALTH AND SAFETY CODE, §401.207(j), THIS APPLICATION MUST BE COMPLETED BY APPROPRIATE REPRESENTATIVES OF THE DEPARTMENT OF DEFENSE OR THE GENERATOR OF THE WASTE UNLESS THE GENERATOR IS A SMALL GENERATOR AS DEFINED IN 31 TAC §675.23(o), IN WHICH CASE THE APPLICATION MAY BE SUBMITTED BY AN APPROPRIATELY LICENSED BROKER)

I. Applicant Information:

Entity Name	<u>Pacific Gas and Electric Company, HBPP</u>
Contact Person	<u>John G. Kristofzski</u>
Phone	<u>(707) 444-0880</u>
Email	<u>JGKC@pge.com</u>
Website address	<u>www.pge.com</u>
Business Address	<u>1000 King Salmon Ave.</u>
	<u>Eureka, CA, 95503</u>
Mailing Address	<u>Same</u>

Is Applicant:  Generator  
 A Broker who is a:  Licensed Waste Processor  
 Licensed Waste Collector  
 Department of Defense

Notes:

(1) An appropriately licensed Broker may act on behalf of a Small Generator only if each such generator is identified and written authorization from each such generator is provided as an attachment hereto.

(2) While Department of Defense Regulation 4715.6-R designates the Department of the Army as Executive Agent for disposal of low-level radioactive waste, the Commission will require that any agreement that it enters into in this regard be signed by both the Department of the Army as Executive Agent and the branch of the military that has generated the waste.

Generator Type:  Industrial  
 Academic/Research  
 Medical  
 Utility  
 Government

Is Applicant the entity responsible for the waste shipment?  yes  no

If no, please include the name and contact information for the entity responsible for the waste shipment.

Is Waste from a "Small Generator"?  yes  no

2. Term/Duration from Date of Approval: April 26, 2013 – April 26, 2014

3. Waste proposed for importation.

Waste Volume (Cubic Feet) 601.5 estimate

Waste Radioactivity in Curies 2800 estimate

Place of origination (State) of waste: California

Waste description:

Irradiated hardware, reactor internals, and resins from HBPP

Waste classification (Class A, Class B, or Class C): Class B & C

Waste form:  stable  unstable

Does waste contain any of the following radionuclides, check box(es) and complete blank(s):

C-14 3,071 estimate millicuries (mCi)

Tc-99 21,612 estimate microcuries (uCi)

I-129 N/A nanocuries (nCi)

Depleted Uranium N/A microcuries (uCi)

Concentration N/A (provide units)

Source of generation

Nuclear Reactor Operations

4. Is the proposed waste a sealed source?

No.

Yes. Please explain: \_\_\_\_\_

5. Does Broker and/or Generator(s) have any unresolved violation(s), complaint(s), unpaid fee(s), or past due report(s) with the Texas Low-Level Radioactive Waste Disposal Compact Commission?

No

Yes. Please explain: \_\_\_\_\_

6. Does Broker and/or Generator(s) have any unresolved violation(s), complaint(s), unpaid fee(s), or past due report(s) pending with any other regulatory agency with jurisdiction to regulate radioactive material including, without limitation, the Texas Commission on Environmental Quality (TCEQ)?

No

Yes. Please explain: \_\_\_\_\_

7. **Certifications.** Applicant hereby certifies the following.

a. The information provided herein is complete, accurate and correct.

b. The low-level radioactive waste for which this Application is submitted will be packaged and shipped in accordance with applicable state and federal regulations and is acceptable for disposal at the Compact Facility.

- c. The person submitting this Application is authorized by Applicant to commit Applicant to each and every obligation and condition set forth herein and in the Agreement for Importation of Nonparty Compact Waste. A copy of a written document containing such authorization must be attached to this Application.
- d. Applicant has delivered to the Compact Facility operator and TCEQ a copy of this Application and the Agreement for Importation of Nonparty Compact Waste (along with any supplements or amendment thereto).

8. Authorized Signatory:

John G. Kristofzski

\_\_\_\_\_  
*Print or type name*

\_\_\_\_\_  
*Signature*

Strategic Waste Disposal Manager

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Date*

11/30/13

**ATTACHMENTS:**

(Attachments should include all applicable licenses, authorizations, and other materials needed or useful to fully explain the application.)

**POLICY OF THE  
SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMMISSION  
REGARDING EXPORTATION OF VARIOUS  
LOW-LEVEL RADIOACTIVE WASTE STREAMS**

Amended May 6, 2011

The purpose of this policy statement is to interpret the authority of the Southwestern Low-Level Radioactive Waste Commission (Commission) with regard to the exportation of material, which otherwise meets the criteria of low-level radioactive waste, outside the Southwestern region. Such interpretation will: (1) establish the jurisdiction of the Commission as set forth in Public Law; (2) designate exportations for the purpose of disposal; (3) designate exportations for the purpose of recycling; (4) designate exportations for the purpose of treatment (5) designate waste outside the jurisdiction of the Commission; (6) establish the bounds of authority of the Executive Director to approve exportation petitions on behalf of the Commission; and (7) establish an exportation fee mechanism.

**JURISDICTION OF THE COMMISSION**

The Low-Level Radioactive Waste Policy Amendments Act of 1985 (Act) (Pub.L. No. 99-240, 99 Stat. 1842) made each State responsible for providing, either by itself or in cooperation with other States, for the disposal of low-level radioactive waste generated within the State. The Act expressed the policy of the Federal Government that the responsibilities of the States for the disposal of low-level radioactive waste can be most safely and effectively managed on a regional basis. To carry out this policy the Act authorized the States to enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste. Pursuant to this authority and with the consent of Congress, the states of Arizona, California, North Dakota and South Dakota have entered into such a compact embodied in the Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act (Compact) (Pub.L. No. 100-712, 102 Stat. 4773). The Compact established the Southwestern Low-Level Radioactive Waste Commission (Commission) and enumerates its duties and authority.

The first and foremost duty and authority of the Commission is set forth in the Compact as follows:

"The Commission shall do, pursuant to the authority granted by this compact, whatever is reasonably necessary to ensure that low-level radioactive wastes are safely disposed of and managed within the region." (Compact, § 5, art. III, subd. (g)(1).)

This provision directs the Commission to take appropriate action to ensure that low-level radioactive waste is safely disposed of and managed in the region. As to the intended meaning of this language, reference to the definitions found in section 5, article II, of the Compact is necessary.

"Low-level radioactive waste", over which the Commission has jurisdiction, is defined by the Compact to mean:

". . . regulated radioactive material that meets all of the following requirements:

"(1) The waste is not high-level radioactive waste, spent nuclear fuel, or by-product material (as defined in section 11e (2) of the Atomic Energy Act of 1954. . . .

"(2) The waste is not uranium mining or mill tailings.

"(3) The waste is not any waste for which the Federal Government is responsible pursuant to subdivision (b) of section 3 of the Low-Level Radioactive Waste Policy Amendments Act of 1985.

## **EXPORTATION FOR RECYCLING**

The second exportation provision which is found at section 5, article III, subdivision (g) (21) of the Compact states:

"The Commission may approve, only by a two-thirds vote of the Commission, the exportation outside the region of material, which otherwise meets the criteria of low-level radioactive waste, if the sole purpose of the exportation is to process the material for recycling."

Pursuant to this provision, the Commission has the authority to approve exportation outside the region of material, which otherwise meets the criteria of low-level radioactive waste, providing the sole purpose of the waste is to process the material for recycling.

"Recycling means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of new products other than fuel for producing heat or power by combustion." (Exec. Order No. 12873, 58 Fed. Reg. 54911 (Oct. 20, 1993).)

The American Heritage Dictionary of the English Language defines recycle as follows:

In adopting this policy statement by at least a two-thirds vote, the Commission approves the exportation outside the region of material, which otherwise meets the criteria of low-level radioactive waste if the sole purpose of the exportation is to process the material for recycling and no part of the material will be disposed of as waste outside of the region in a low-level radioactive waste land disposal facility. Such approval is general in nature, that is the approval is effective without the filing of any petition with the Commission. However, if any residual low-level radioactive waste remains after the processing and such waste requires disposal at a low-level radioactive waste land disposal facility than an approved export petition is required.

## **TREATMENT OF LOW-LEVEL RADIOACTIVE WASTE**

As stated previously the Commission has the authority to do whatever is reasonably necessary to ensure that low-level radioactive waste is safely managed (Compact, § 5, art. III, subd. (g)(1)). Management includes treatment (Compact, § 5, art. II, subd. (J)). Treatment is a waste conditioning activity which facilitates disposal and recycling (C.C.R., tit. 22, §66216.). It occurs after the material is designated a waste and before its ultimate disposition. Treatment includes, but is not limited to storage for disposal, incineration, and storage for decay. The Commission's authority over exportation of low-level radioactive waste for treatment is derived by implication from section 5, article III, subdivisions (g)(20) and (g)(21). Pursuant to such authority and in adopting this policy statement by at least a two-thirds vote, the Commission approves the exportation of low-level radioactive waste for treatment outside the region. However, if, after treatment, the low-level radioactive waste is disposed of outside the region in a low-level radioactive waste land disposal facility, then the requirements of section 5, article III, subdivision (g) (20) must be satisfied.

## EXPORTATION FEES

The Commission is authorized pursuant to Public Law 100-712, section 5, article III, subdivision (g)(20) to approve petitions for exportation subject to specified terms and conditions. The Commission has determined that one such term and condition is the payment of an exportation fee by the petitioner to the Commission. Collection of the revenue generated by such fee is necessary to fund the activities of the Commission and Commission staff in the performance of Compact required functions pending receipt of revenue from operations at this Compact's regional disposal facility. Such fee shall (1) not discriminate, (2) be based on a fair approximation of use, and (3) be structured to produce revenues that will not exceed the total cost to the Commission of the benefits conferred. In general, the exportation fee due is calculated by applying a Commission approved rate (dollars per cubic foot) against the actual volume of waste exported during the effective period of the approved petition. However, the Commission may establish a range, with minimum and maximum volume levels, for which the general formula is to be applied and may set different approved rates below the minimum volume level and above the maximum volume level. Because the actual volume amount to be exported during this period may not be known ahead of time, the petitioner is to estimate the amount and pay a tentative fee based on this estimated amount.

Payment of a tentative exportation fee based on an estimated volume raises two issues. The first is where the petitioner underestimates the amount of waste to be exported during the period and the second is where the petitioner overestimates the amount. In case of an underestimate, such petitioner is required to submit a new petition and pay the exportation fee associated with this new petition prior to exceeding the volume limit approved in the earlier petition. In case of an overestimate, such petitioner may request a refund from the Commission of the pro rata share of the fee paid. Such request is to be made within six months after the end of the year when the actual volume is known.

For this exportation fee mechanism to function effectively, it is important that the petitioner comply with the companion term and condition found in the petition, that being the requirement to submit to the Commission a timely report of the type, volume and radioactivity of each disposal under the petition.

This policy statement shall remain in effect until December 31, 2011.

Approved

Aubrey Godwin  
(amended & signed 5/6/2011)

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Chair  
Southwestern Low-Level  
Radioactive Waste Commission



## WASTE OUTSIDE THE JURISDICTION OF THE COMMISSION

Waste over which the Commission has jurisdiction is defined by the Compact to mean regulated radioactive material that specifically meets the requirements stated above. There is a class of materials that typically contain very low concentrations of radionuclides from licensed sources used or possessed by licensees of the U.S. Nuclear Regulatory Commission (NRC) or agreement states but which, for the purposes of disposition, are regarded by the NRC and agreement states through decision, license condition, or technical specification, as something other than low level radioactive waste. Although the NRC policy and regulatory framework that addresses this class of materials and its disposition has been under review for some time, currently these materials are considered not regulated by the NRC and therefore outside the jurisdiction of the Commission as defined by the Compact. As a consequence the Commission has adopted the following policy relative to this class of material:

1. Waste which is determined by license condition or technical specification or agreement state decision or NRC decision to qualify for Conditional Clearance (i.e., restricted release from regulatory control) or for Unconditional Clearance (i.e. unrestricted release from regulatory control) is not subject to the jurisdiction of the Commission.
2. Waste which is determined by license condition or technical specification or agreement state decision or NRC decision to qualify for No Release (from regulatory control) is subject to the requirements of the Compact, section 5, article III, subdivision (g)(20). In other words, such waste must be sent to a facility licensed to accept radioactive solid material for disposal, and export of such low-level radioactive waste is subject to the jurisdiction of the Commission.

## APPROVAL OF PETITIONS FOR EXPORTATION

The Compact states that the Commission may, upon petition, allow the exportation of low-level radioactive waste to disposal facilities outside the region. Such petitions require a two-thirds vote of the Commission for approval.

The Commission process for approval of exportation petitions is structured to insure compliance with the Commission document "Requirements of the Southwestern Low-Level Radioactive Waste Commission for Exportation Petitions for Low-Level Radioactive Waste Disposal," as amended, which is approved by a two-thirds vote of the Commission. Petitions submitted to the Commission are evaluated by the Executive Director for compliance with these requirements, and if proper are processed and approved on behalf of the Commission, subject to oversight by the Commission's Exportation Advisory Committee.

If a petitioner seeks an exportation decision at a Commission meeting, the petition must be submitted to the Commission in time to have it placed on the meeting agenda. The petition format must be consistent with the requirements in the document entitled, "Requirements of The Southwestern Low-Level Radioactive Waste Commission For the Exportation Petitions for Low-Level Radioactive Waste Disposal." The Commission makes the decision at its meeting regarding the petition. The Commission's Executive Director then processes such petitions after the decision including approving the petition when directed by the Commission.

Oversight by the Exportation Advisory Committee includes, but is not limited to:

1. Monthly review of the details of each petition processed by the Executive Director during the period under review;
2. Coordination with the Executive Director where necessary;
3. Reporting to the full Commission at each Commission meeting on the activities of the Committee to verify that the petition approval process is operating as the Commission intended;
4. Recommending changes to the petition approval procedure when necessary; and
5. Requesting Commission ratification of petitions processed since the last meeting.

"(4) The waste is not an alpha emitting transuranic nuclide with a half-life greater than five years and with a concentration greater than one hundred nanocuries per gram, or plutonium-241 with a concentration greater than three thousand five hundred nanocuries per gram, or curium-242 with a concentration greater than twenty thousand nanocuries per gram." (Compact, § 5, art. II, subdivision (I).)

"Low-level radioactive waste", over which the Commission has jurisdiction, includes that waste classified by the U.S. Nuclear Regulatory Commission as provided in 10 CFR § 61.55.

Accordingly, the Commission has jurisdiction over regulated radioactive material which meets the criteria above, with the exception of discrete sources of naturally occurring radioactive material and all accelerator produced radioactive material. These materials are regulated by the Nuclear Regulatory Commission (NRC), but are excluded from the Commission's jurisdiction by law.

"Disposal" means the permanent isolation of low-level radioactive waste pursuant to requirements established by the Nuclear Regulatory Commission and the Environmental Protection Agency under applicable laws, or by a party state if the state hosts a disposal facility (Compact, § 5, art. II, subdivision (C)). Permanent isolation refers to emplacement of the low-level radioactive waste in a low-level radioactive waste disposal facility established and operated under the Compact so as to isolate it from the biosphere inhabited by man and containing his food chains.

The term "managed" relates to management which means collection, consolidation, storage, packaging, or treatment (Compact, § 5, art. II, subdivision (J)).

In accordance with these definitions, section 5, article III, subdivision (g)(1) means the Commission has the duty and the authority to do whatever is reasonably necessary to ensure that regulated low-level radioactive wastes are safely managed, i.e., collected, consolidated, stored, packaged, and treated and safely disposed of by permanent isolation in the region's land disposal facility. This authority, when combined with the provision found in section 5, article VIII, subdivision (A) of the Compact which states, "[t]he provisions of this compact shall be broadly construed to carry out the purposes of the compact . . . .", gives the Commission broad discretion in the exercise of its responsibilities

#### EXPORTATION FOR DISPOSAL

There are two exportation provisions within the Compact. The first is found at section 5, article III, subdivision (g) (20) of the Compact. It states:

"The Commission may, upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level radioactive wastes to a low-level radioactive waste disposal facility located outside the region. The Commission may approve the petition only by a two-thirds vote of the Commission. The permission to export low-level radioactive wastes shall be effective for that period of time and for the amount of low-level radioactive waste, and subject to any other term or condition, which may be determined by the Commission."

This provision grants the Commission the authority to allow the exportation of low-level radioactive waste to a low-level radioactive waste disposal facility located outside the region. Such language implies that the low-level radioactive waste is being exported for disposal, i.e., for permanent isolation by emplacement of the waste in such a low-level radioactive waste land disposal facility. This exportation is contingent upon the Commission's approval of a petition by a two-thirds vote. The exportation is subject to specified terms and conditions.

The Commission interprets section 5, article III, subdivision (g) (20) of the Compact to apply to any low-level radioactive waste exported either directly or indirectly to a low-level radioactive waste disposal facility located outside the region. "Directly" refers to the exportation of low-level radioactive waste from a location in the Southwestern region directly to a low-level radioactive waste land disposal facility located outside such region.

"Indirectly" refers to the exportation of low-level radioactive waste from a location in the Southwestern region to a facility at a location outside the region which is not a low-level radioactive waste disposal facility and where such wastes are stored or processed for subsequent disposal at a low-level radioactive waste disposal facility located outside the region.