

March 12, 1998

Mr. Gregory M. Rueger, Senior Vice President  
and General Manager  
Pacific Gas and Electric Company  
Nuclear Power Generation N9B  
P. O. Box 770000  
San Francisco, California 94177

SUBJECT: ISSUANCE OF EXEMPTION FROM CERTAIN REQUIREMENTS OF 10 CFR  
50.71(e)(4) - DIABLO CANYON NUCLEAR POWER PLANT, UNIT NOS. 1 AND 2  
(TAC NOS. MA0393 AND MA0394)

Dear Mr. Rueger:

The Commission has issued the enclosed Exemption from certain requirements of 10 CFR 50.71(e)(4) regarding submission of revisions to the Final Safety Analysis Report (FSAR) and design change reports for facility changes made under 10 CFR 50.59 for the Diablo Canyon Nuclear Power Plant (DCNPP), Unit Nos. 1 and 2. This exemption is related to your application dated December 8, 1997, to schedule updates to the single, unified FSAR for the two units that comprise DCNPP once per fuel cycle (based upon the Unit 2 refueling outage schedule). With the current length of fuel cycles, FSAR updates would be submitted every 24 months, but not to exceed 24 months from the last submittal.

A copy of the Exemption and the staff's safety evaluation are enclosed. The Exemption is being forwarded to the Office of the Federal Register for publication.

Sincerely,  
Original Signed By  
Steven D. Bloom, Project Manager  
Project Directorate IV-2  
Division of Reactor Projects III/IV  
Office of Nuclear Reactor Regulation

Docket Nos. 50-275  
and 50-323

Enclosures: 1. Exemption  
2. Safety Evaluation

cc w/encls: See next page

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Mr. Gregory M. Rueger

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March 12, 1998

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
PACIFIC GAS AND ELECTRIC COMPANY	)	Docket Nos. 50-275
	)	and 50-323
(Diablo Canyon Nuclear Power Plant,	)	
Unit Nos. 1 and 2)	)	

EXEMPTION

I.

Pacific Gas and Electric Company, et al. (the licensee) is the holder of Facility Operating License Nos. DPR-80 and DPR-82, which authorize operation of the Diablo Canyon Nuclear Power Plant (DCNPP), Unit Nos. 1 and 2. The licenses provide, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of two pressurized-water reactors at the licensee's site located in San Luis Obispo County, California.

II.

Section 50.71 of Title 10 of the Code of Federal Regulations (10 CFR), "Maintenance of records, making of reports," paragraph (e)(4) states, in part, that "Subsequent revisions must be filed annually or 6 months after each refueling outage provided the interval between successive updates to the FSAR does not exceed 24 months." The two DCNPP units share a common Final Safety Analysis Report (FSAR); therefore, this rule requires the licensee to update the same document within 6 months after a refueling outage for either unit.

III.

Section 50.12(a) of 10 CFR, "Specific exemption," states that...

The Commission may, upon application by any interested person, or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. (2) The Commission will not consider granting an exemption unless special circumstances are present.

Section 50.12(a)(2)(ii) of the 10 CFR states that special circumstances are present when "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule...." The licensee's proposed schedule for FSAR updates will ensure that the DCNPP FSARs will be maintained current within 24 months of the last revision and the interval for submission of the 10 CFR 50.59 design change report will not exceed 24 months. The proposed schedule fits within the 24-month duration specified by 10 CFR 50.71(e)(4). Literal application of 10 CFR 50.71(e)(4) would require the licensee to update the same document within 6 months after a refueling outage for either unit, a more burdensome requirement than intended. Accordingly, the Commission has determined that special circumstances are present as defined in 10 CFR 50.12(a)(2)(ii).

IV.

The Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety and is

consistent with the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants Pacific Gas and Electric Company an exemption from the requirement of 10 CFR 50.71(e)(4) to submit updates to the DCNPP FSAR within 6 months of each outage. The licensee will be required to submit updates to the DCNPP FSAR within six months after each Unit 2 refueling outage. With the current length of fuel cycles, FSAR updates would be submitted every 24 months, but not to exceed 24 months from the last submittal.

Pursuant to 10 CFR 51.32, the Commission has determined that granting of this exemption will have no significant effect on the environment (63 FR 10654).

This exemption is effective upon issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

  
Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland,  
this 12th day of March 1998



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

EXEMPTION FROM UPDATED FINAL SAFETY ANALYSIS REPORT

UPDATE REQUIREMENTS OF 10 CFR 50.71(e)(4)

PACIFIC GAS AND ELECTRIC COMPANY

DIABLO CANYON NUCLEAR POWER PLANT, UNIT NOS. 1 AND 2

DOCKET NOS. 50-275 AND 50-323

1.0 INTRODUCTION

By letter dated December 8, 1997, Pacific Gas and Electric Company (the licensee) submitted a request for an exemption from the requirements of 10 CFR 50.71(e)(4), "Maintenance of records, making reports" for the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2 (DCNPP). Section 50.71(e)(4) requires, in part, that "Subsequent revisions must be filed annually or 6 months after each refueling outage provided the interval between successive updates to the FSAR does not exceed 24 months." The two DCNPP units share a common FSAR; therefore, this rule requires, literally, the licensee to update the station's FSAR within 6 months after a refueling outage for either unit.

2.0 EVALUATION

Section 50.71(e)(4) ensures that all licensees update their FSARs at least every refueling outage and no less frequently than every 2 years. When two units share a common FSAR, the rule has the effect of making the licensee update the FSAR roughly every 12 to 18 months. The current rule, as revised in August 31, 1992 (57 FR 39358), was intended to provide some reduction in regulatory burden by limiting the frequency of required updates. The burden reduction, however, can only be realized by single-unit facilities or multiple-unit facilities that maintain separate FSARs for each unit. For multiple-unit facilities with a common FSAR, the "each refueling outage" phrase increases rather than decreases the regulatory burden. To address this concern for multi-unit plants, the authors of the revised rule stated, in response to a comment on the draft revision, that "[w]ith respect to [the] concern about multiple facilities sharing a common [U]FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis."

The licensee's requested exemption would permit periodic FSAR updates within 6 months of Unit 2's refueling outage, but not to exceed 24 months from the last revision. Thus the requirement that an update be submitted within 6 months of an outage of each unit is no longer retained. With the exemption, the DCNPP FSAR will be updated and maintained current within 24 months of the last revision.

### 3.0 CONCLUSION

The staff finds that the proposed alternative meets the intent of the existing regulations, requiring the FSAR to be revised at least once per 24 months. Therefore, the proposed exemption from 10 CFR 50.71(e)(4) for DCNPP Unit Nos. 1 and 2, is acceptable.

Principal Contributor: Steven D. Bloom

Date: March 12, 1998