

March 1, 2006

Mr. John S. Keenan
Senior Vice President
and Chief Nuclear Officer
Pacific Gas and Electric Company
Diablo Canyon Power Plant
P.O. Box 770000
San Francisco, CA 94177-0001

SUBJECT: NRC RESPONSE TO PACIFIC GAS AND ELECTRIC COMPANY'S LETTER OF
INTENT TO ADOPT 10 CFR 50.48(c) (NFPA 805 RULE) FOR DIABLO
CANYON POWER PLANT, UNITS 1 AND 2

Dear Mr. Keenan:

This letter responds to a letter dated December 29, 2005 (Agencywide Documents Access and Management System Accession No. ML060100480), in which Pacific Gas and Electric Company (PG&E) informed the U.S. Nuclear Regulatory Commission (NRC) that it intends to adopt National Fire Protection Association (NFPA) 805, "NFPA 805, Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants," 2001 Edition (NFPA 805 Rule), in accordance, with the requirements in Paragraph 50.48(c) of Title 10 of the *Code of Federal Regulations* (10 CFR) for the Diablo Canyon Power Plant (DCPP), Units 1 and 2.

The letter requests enforcement discretion for existing identified noncompliances in accordance with the NRC's Interim Enforcement Policy (69 FR 33684 and 70 FR 2662). Since PG&E has met the deadline to receive discretion for existing identified noncompliances, NRC approves PG&E's request.

In this letter, you also informed the NRC that PG&E will begin the transition to the performance-based standard for fire protection in January 2006 and will pursue a schedule consistent with submittal of a license amendment request (LAR) within 36 months. PG&E also indicated that the transition process will proceed in three phases, which include the following:

Phase I - Preliminary assessment of the fire protection program;
Phase II - Reviews and engineering analysis; and
Phase III - Implementation

PG&E also noted that the transition schedule is subject to change depending on the extent to which PG&E determines that it needs to make either physical modifications or changes to the fire protection program to comply with NFPA 805.

PG&E provided numerous reasons for requesting an enforcement discretion window of 36 months, as opposed to the 24-month window approved by the Commission. Some of the key reasons that it provided for requesting an extension are:

- Efficiencies will be gained by observing completion of the transition for pilot plants and implementing lessons learned;

- PG&E resources would be constrained under a 24-month transition window; and
- Industry resources required to assist in the transition will be limited due to the number of plants PG&E anticipates to be transitioning at the same time. There are a limited number of industry experts in the areas of electrical engineering (circuit analysis), system engineering, and Appendix R safe shutdown needed to support the transition to NFPA 805.

Under the enforcement discretion policy currently in place, the discretion period for both DCP Unit 1 and Unit 2 begins December 31, 2005, and will expire on December 31, 2007. However, a number of licensees have raised issues similar to the ones that you have raised as the basis to request extensions to the enforcement discretion window. The NRC staff is considering PG&E's request and will contact PG&E when we have reached a decision.

PG&E's letter indicates its understanding that the letter of intent initiates a window of enforcement discretion for DCP Units 1 and 2, no enforcement action will be taken by the NRC for non-safety significant noncompliances, subject to the guidance provided in the Interim Enforcement Policy. PG&E's understanding is accurate. Please note that in order to receive enforcement discretion, PG&E must: (a) evaluate the risk significance of all incidents of noncompliance to assure that they do not constitute "Red" findings under the Reactor Oversight Program or would be characterized as a Severity Level I; (b) enter all incidents of noncompliance into its corrective action program; and (c) implement and maintain appropriate compensatory measures, until the NRC staff approves its LAR to transition to NFPA 805 and issue the safety evaluation report. Please refer to NRC Regulatory Issue Summary 2005-07, "Compensatory Measures to Satisfy the Fire Protection Program Requirements," to determine appropriate compensatory measures.

A number of utilities which are not pilots for NFPA 805, have requested meetings with the NRC staff to review their project plan and discuss transition issues. We recognize the benefits of communication among transitioning licensees, the Office of Nuclear Reactor Regulation (NRR), and the regional staff. Therefore, we plan to hold periodic workshops at the regional offices on NFPA 805 implementation issues.

PG&E's letter indicates that it is its understanding that after submitting the letter of intent to comply with 10 CFR 50.48(c), and prior to submitting the license amendment, it may withdraw the intent and not complete the transition to 10 CFR 50.48(c). Again PG&E's understanding is accurate and consistent with the enforcement discretion policy. According to the enforcement discretion policy, in the event PG&E chooses to withdraw your intent to adopt 10 CFR 50.48(c), PG&E must submit a letter stating your intent to withdraw. Any violations that PG&E has identified prior to the date of a withdrawal letter will be eligible for discretion, provided that they are resolved under the existing licensing basis prior to the withdrawal and meet other criteria mentioned in the policy.

J. Keenan

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If you have any questions regarding this matter, please contact Alan B. Wang, Project Manager, at (301) 415-1445 or abw@nrc.gov.

Sincerely,

/RA/

Catherine Haney, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-275 and 50-323

cc: See next page

J. Kennan

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If you have any questions regarding this matter, please contact Alan B. Wang, Project Manager, at (301) 415-1445 or abw@nrc.gov.

Sincerely,

/RA/

Catherine Haney, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-275 and 50-323

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January 2006