

March 19, 2007

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: DIABLO CANYON POWER PLANT, UNIT NOS. 1 AND 2 - ISSUANCE OF
AMENDMENTS RE: DELETION OF LICENSE CONDITION SECTION 2.G OF
THE FACILITY OPERATING LICENSES (TAC NOS. MD3817 AND MD3818)

Dear Mr. Keenan:

The U.S. Nuclear Regulatory Commission (the Commission/NRC) has issued the enclosed Amendment No. 193 to Facility Operating License No. DPR-80 and Amendment No. 194 to Facility Operating License No. DPR-82 for the Diablo Canyon Power Plant, Unit Nos. 1 and 2, respectively. The amendments consist of changes to the Technical Specifications in response to your application dated December 14, 2006.

The amendments delete Section 2.G of Facility Operating License Nos. DPR-80 and DPR-82, which require reporting of violations of the requirements of Sections 2.C, 2.E, and 2.F of the operating license. This operating license improvement was made available by the NRC on November 4, 2005, as part of the consolidated line item improvement process (CLIP).

A copy of the related Safety Evaluation is enclosed. The Notice of Issuance will be included in the Commission's next regular biweekly *Federal Register* notice.

Sincerely,

/RA/

Alan Wang, Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-275 and 50-323

Enclosures: 1. Amendment No. 193 to DPR-80
2. Amendment No. 194 to DPR-82
3. Safety Evaluation

cc w/encls: See next page

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No w/comments

Diablo Canyon Power Plant, Units 1 and 2

cc:

NRC Resident Inspector
Diablo Canyon Power Plant
c/o U.S. Nuclear Regulatory Commission
P.O. Box 369
Avila Beach, CA 93424

Sierra Club San Lucia Chapter
ATTN: Andrew Christie
P.O. Box 15755
San Luis Obispo, CA 93406

Ms. Nancy Culver
San Luis Obispo
Mothers for Peace
P.O. Box 164
Pismo Beach, CA 93448

Chairman
San Luis Obispo County
Board of Supervisors
1055 Monterey Street, Suite D430
San Luis Obispo, CA 93408

Mr. Truman Burns
Mr. Robert Kinoshian
California Public Utilities Commission
505 Van Ness, Room 4102
San Francisco, CA 94102

Diablo Canyon Independent Safety
Committee
ATTN: Robert R. Wellington, Esq.
Legal Counsel
857 Cass Street, Suite D
Monterey, CA 93940

Regional Administrator, Region IV
U.S. Nuclear Regulatory Commission
Harris Tower & Pavillion
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011-8064

Antonio Fernández, Esq.
Pacific Gas & Electric Company
P.O. Box 7442
San Francisco, CA 94120

City Editor
The Tribune
3825 South Higuera Street
P.O. Box 112
San Luis Obispo, CA 93406-0112

Director, Radiologic Health Branch
State Department of Health Services
P.O. Box 997414, MS 7610
Sacramento, CA 95899-7414

Mr. James D. Boyd, Commissioner
California Energy Commission
1516 Ninth Street (MS 31)
Sacramento, CA 95814

Mr. James R. Becker, Vice President
Diablo Canyon Operations
and Station Director
Diablo Canyon Power Plant
P.O. Box 56
Avila Beach, CA 93424

Jennifer Tang
Field Representative
United States Senator Barbara Boxer
1700 Montgomery Street, Suite 240
San Francisco, CA 94111

PACIFIC GAS AND ELECTRIC COMPANY

DOCKET NO. 50-275

DIABLO CANYON NUCLEAR POWER PLANT, UNIT NO. 1

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 193
License No. DPR-80

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by Pacific Gas and Electric Company (the licensee), dated December 14, 2006, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.
2. Accordingly, the license is amended by changes to paragraph 2.C.(2) and Section 2.G of Facility Operating License No. DPR-80 as indicated in the attachment to this license amendment.

3. This license amendment is effective as of its date of issuance and shall be implemented within 90 days.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

David Terao, Chief
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Attachment: Changes to the Facility
Operating License

Date of Issuance: March 19, 2007

PACIFIC GAS AND ELECTRIC COMPANY

DOCKET NO. 50-323

DIABLO CANYON NUCLEAR POWER PLANT, UNIT NO. 2

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 194
License No. DPR-82

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by Pacific Gas and Electric Company (the licensee), dated December 14, 2006, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.
2. Accordingly, the license is amended by changes to paragraph 2.C.(2) and Section 2.G of Facility Operating License No. DPR-82 as indicated in the attachment to this license amendment.

3. This license amendment is effective as of its date of issuance and shall be implemented within 90 days.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

David Terao, Chief
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Attachment: Changes to the Facility
Operating License

Date of Issuance: March 19, 2007

ATTACHMENT TO LICENSE AMENDMENT NO.193
TO FACILITY OPERATING LICENSE NO. DPR-80 AND
AMENDMENT NO. 194 TO FACILITY OPERATING LICENSE NO. DPR-82
DOCKET NOS. 50-275 AND 50-323

Replace the following pages of the Facility Operating Licenses, Nos. DPR-80 and DPR-82, with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

Facility Operating License No. DPR-80

REMOVE

-3-
-9-

INSERT

-3-
-9-

Facility Operating License No. DPR-82

REMOVE

-3-
-7-

INSERT

-3-
-7-

- (4) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use in amounts as required any byproduct, source or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and
- (5) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.

C. This License shall be deemed to contain and is subject to the conditions specified in the Commission's regulations set forth in 10 CFR Chapter I and is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:

(1) Maximum Power Level

The Pacific Gas and Electric Company is authorized to operate the facility at reactor core power levels not in excess of 3411 megawatts thermal (100% rated power) in accordance with the conditions specified herein.

(2) Technical Specifications

The Technical Specifications contained in Appendix A and the Environmental Protection Plan contained in Appendix B, as revised through Amendment No. 193, are hereby incorporated in the license. Pacific Gas & Electric Company shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan, except where otherwise stated in specific license conditions.

(3) Initial Test Program

The Pacific Gas and Electric Company shall conduct the post-fuel-loading initial test program (set forth in Section 14 of Pacific Gas and Electric Company's Final Safety Analysis Report, as amended), without making any major modifications of this program unless modifications have been identified and have received prior NRC approval. Major modifications are defined as:

- a. Elimination of any test identified in Section 14 of PG&E's Final Safety Analysis Report as amended as being essential;

- (4) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use in amounts as required any byproduct, source or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and
- (5) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.

C. This License shall be deemed to contain and is subject to the conditions specified in the Commission's regulations set forth in 10 CFR Chapter I and is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:

(1) Maximum Power Level

The Pacific Gas and Electric Company is authorized to operate the facility at reactor core power levels not in excess of 3411 megawatts thermal (100% rated power) in accordance with the conditions specified herein.

(2) Technical Specifications (SSER 32, Section 8)* and Environmental Protection Plan

The Technical Specifications contained in Appendix A and the Environmental Protection Plan contained in Appendix B, as revised through Amendment No. 194, are hereby incorporated in the license. Pacific Gas & Electric Company shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan, except where otherwise stated in specific license conditions.

(3) Initial Test Program (SSER 31, Section 4.4.1)

Any changes to the Initial Test Program described in Section 14 of the FSAR made in accordance with the provisions of 10 CFR 50.59 shall be reported in accordance with 50.59(b) within one month of such change.

*The parenthetical notation following the title of many license conditions denotes the section of the Safety Evaluation Report and/or its supplements wherein the license condition is discussed.

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
RELATED TO AMENDMENT NO. 193 TO FACILITY OPERATING LICENSE NO. DPR-80
AND AMENDMENT NO. 194 TO FACILITY OPERATING LICENSE NO. DPR-82
PACIFIC GAS AND ELECTRIC COMPANY
DIABLO CANYON POWER PLANT, UNITS 1 AND 2
DOCKET NOS. 50-275 AND 50-323

1.0 INTRODUCTION

By application dated December 14, 2006 (Agencywide Documents Access and Management System Accession No. ML063610338), Pacific Gas and Electric Company (PG&E or the licensee) requested changes to the Facility Operating License Nos. DPR-80 and DPR-82 for the Diablo Canyon Power Plant, Units 1 and 2 (DCPP).

The proposed amendments would delete Section 2.G of Facility Operating License Nos. DPR-80 and DPR-82, which require reporting of violations of the requirements of Sections 2.C, 2.E, and 2.F of the operating license. A notice announcing the availability of this proposed change using the consolidated line item improvement process was published in the *Federal Register* on November 4, 2005 (70 FR 67202).

2.0 REGULATORY EVALUATION

A section or condition was included in the facility operating licenses issued to some nuclear power plants requiring the licensee to make reports to the U.S. Nuclear Regulatory Commission (NRC) regarding violations of other sections of the operating license (typically Section 2.C). In the case of DCPP, Section 2.G of the Facility Operating Licenses reads as follows:

PG&E shall report any violations of the requirements contained in Sections 2.C(3) and 2.C(4), 2.C(6) through 2.C(10), 2.E and 2.F, of this License within 24 hours. Initial notification shall be made in accordance with the provisions of 10 CFR 50.72 with written follow-up in accordance with the procedures described in 10 CFR 50.73(b), (c), (d) and (e).

In addition to the information provided to support licensing decisions, the NRC obtains information about plant operation, licensee programs, and other matters using a combination of inspections and reporting requirements. Routine or scheduled reports that are required to be submitted to the NRC are defined in the related regulations, specific license condition, technical specification, or an NRC-approved program document. The reporting of emergencies, unplanned events or conditions, and other special cases may also be addressed within such

documents by the inclusion of reporting thresholds and are also the focus of the reporting requirements in Section 50.72 of Title 10 of the *Code of Federal Regulations* (10 CFR), “Immediate notification requirements for operating nuclear power reactors,” and 10 CFR 50.73, “Licensee event report system.” Changes to the reporting regulations in 10 CFR 50.72 and 50.73 became effective in January 2001 (see *Federal Register* notice of October 25, 2000 (65 FR 63769)) and included extending the allowable reporting times for licensee event reports (LERs) from 30 days to 60 days.

3.0 TECHNICAL EVALUATION

Section 2.G of the DCP Facility Operating Licenses requires the licensee to report any violations of the requirements of Sections 2.C(3), (4), and (6) through (10), 2.E, and 2.F of the Facility Operating Licenses and defines the method and allowable time periods for such reports. The reporting threshold (i.e., a violation) for the conditions included in Sections 2.C(3), (4), and (6) through (10), 2.E, and 2.F of the Facility Operating Licenses duplicate those defined in 10 CFR 50.72 and 10 CFR 50.73. However, the requirements in the facility operating licenses have different deadlines than those defined in the regulations following a rule change in 2001. This difference in reporting requirements has led to variations in reporting, since many facility operating licenses do not contain the subject condition. For those licensees with a 30-day reporting requirement in the facility operating license, the condition has decreased the benefits of the rulemaking. For those cases where the current facility operating license requirement to report violations is also reportable in accordance with the regulations defined in 10 CFR 50.72 and 10 CFR 50.73, the NRC staff finds that the regulations adequately address this issue and the elimination of the duplicative requirement in the facility operating license is acceptable.

Some of the conditions addressed in Sections 2.C(3), (4), and (6) through (10), 2.E, and 2.F of the Facility Operating Licenses may address the maintenance of particular programs, administrative requirements, or other matters where a violation of the requirement would not result in a report to the NRC in accordance with 10 CFR 50.72 or 10 CFR 50.73. In most cases, there are requirements for reports to the NRC related to these conditions in other regulations, the specific license condition or technical specification, or an NRC-approved program document. In other cases, there are reports to other agencies or news releases that would prompt a report to the NRC (in accordance with 10 CFR 50.72(b)(2)(xi)). The NRC staff also assessed violations of administrative requirements that could be reportable under the current license condition but that may not have a duplicative requirement in a regulation or other regulatory requirement. The NRC staff finds that the requirements to report such problems within 24 hours with written reports to follow using the LER process is not needed. The NRC staff is confident that the information related to such violations that is actually important to the NRC’s regulatory functions would come to light in a time frame comparable to the 60-day LER requirements. The information would become available to the appropriate NRC staff through the inspection program, updates to program documents, resultant licensing actions, public announcements, or some other reliable mechanism.

The NRC staff finds that the elimination of Section 2.G in the DCP Facility Operating Licenses will not result in a loss of information to the NRC that would adversely affect either its goal to protect public health and safety or its ability to carry out its various other regulatory responsibilities. Therefore, the elimination of Section 2.G of the Facility Operating Licenses is acceptable.

4.0 STATE CONSULTATION

In accordance with the Commission's regulations, the California State official was notified of the proposed issuance of the amendments. The State official had no comments.

5.0 ENVIRONMENTAL CONSIDERATION

The amendments change a requirement with respect to the installation or use of a facility component located within the restricted area as defined in 10 CFR Part 20. The NRC staff has determined that the amendments involve no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendments involve no significant hazards consideration and there has been no public comment on such finding (72 FR154; published on January 3, 2007). Accordingly, the amendments meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendments.

6.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

7.0 REFERENCE

NRC's model safety evaluation published in the *Federal Register* on August 29, 2005 (70 FR 51098).

Principal Contributor: T. Wertz

Date: March 19, 2007