



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

December 19, 2008

Mr. John Conway
Senior Vice President - Station
Generation 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 – EVALUATION OF THE REQUEST FOR AN EXTENSION OF ENFORCEMENT DISCRETION IN ACCORDANCE WITH THE INTERIM ENFORCEMENT POLICY FOR FIRE PROTECTION ISSUES DURING TRANSITION TO NATIONAL FIRE PROTECTION STANDARD NFPA 805 (TAC NOS. ME0075 AND ME0076)

Dear Mr. Conway:

On September 10, 2008, the U.S. Nuclear Regulatory Commission (NRC) published in the Federal Register (73 FR 52705) a revision to its Interim Enforcement Policy regarding enforcement discretion for certain fire protection issues, allowing licensees the option to request an extended enforcement discretion period for submittal of a license amendment request (LAR) if they are pursuing transition to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.48(c), "National Fire Protection Standard NFPA 805."

This revision states that an additional period of enforcement discretion may be granted on a case-by-case basis, if a licensee has made substantial progress in its transition effort. This additional period of enforcement discretion, if granted, would end six months after the date of the safety evaluation approving the second pilot plant LAR. These changes are in accordance with COMSECY-08-0022, as approved by the Commission on August 19, 2008. The enforcement discretion will continue in place, without interruption, until NRC disposition of the site's LAR to transition to NFPA 805.

By letter dated October 15, 2008 to the NRC (Agencywide Documents Access and Management System Accession No. ML082970259), Pacific Gas and Electric Company (PG&E, the licensee) requested that the period of fire protection enforcement discretion for the Diablo Canyon Power Plant, Unit Nos. 1 and 2 be extended until six months after the NRC's approval of both pilot plant LARs to transition to the National Fire Protection Association's risk-informed, performance-based standard for light water reactors (NFPA 805). Per the new interim fire protection enforcement policy outlined above, licensees may request an extension of their evaluation period beyond the 3 years of enforcement discretion previously provided.

To be granted this extension, a licensee must:

1. Compile a list of all fire protection related non-compliances and the related compensatory measures for those non-compliances.

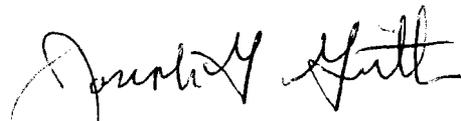
2. Document that each Operator Manual Action put in place as a compensatory measure is feasible and reliable, in accordance with the guidance in Regulatory Issue Summary 2005-07, "Compensatory Measures to Satisfy the Fire Protection Program Requirements."
3. Submit a description of the physical modifications performed to address existing risk-significant fire protection non-compliances.
4. Submit a status report of the transition, including a schedule of milestones, for completing the fire probabilistic risk assessment (PRA). The status report should describe the progress made in the following areas:
 - classical fire protection transition
 - nuclear safety performance criteria transition
 - non-power operation transitions
 - the NFPA 805 monitoring program
 - fire PRA development

The lists of non-compliances, compensatory measures, and operator manual action feasibility determinations should be maintained on-site and up to date for inspector review.

The NRC staff reviewed PG&E's request, and has determined that the licensee has made substantial enough progress in their transition to NFPA 805 to grant the additional enforcement discretion. Accordingly, the enforcement discretion period for the Diablo Canyon Power Plant is hereby extended until six months after the date of the safety evaluation approving the second pilot plant LAR.

If you have any questions regarding this matter, please contact Alan Wang at (301) 415-1445.

Sincerely,



Joseph G. Giitter, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-275 and 50-323

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2. Document that each Operator Manual Action put in place as a compensatory measure is feasible and reliable, in accordance with the guidance in Regulatory Issue Summary 2005-07, "Compensatory Measures to Satisfy the Fire Protection Program Requirements."
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