

May 14, 2020

PG&E Letter DCL-20-042

ATTN: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555

10 CFR 50.12

Docket No. 50-275, OL-DPR-80
Docket No. 50-323, OL-DPR-82
Diablo Canyon Units 1 and 2
Request for One-Time Exemption from 10 CFR 50.71(e)(4) UFSAR and TS Bases
Update Requirements

Dear Commissioners and Staff:

Pursuant to 10 CFR 50.12, "Specific Exemptions," Pacific Gas and Electric Company (PG&E) requests a one-time exemption from the requirements of CFR Part 50.71(e), "Maintenance of records, making of reports," for Diablo Canyon Power Plant (DCPP), Units 1 and 2.

As a result of the challenges associated with DCPD plant staff working remotely due to COVID-19, PG&E is requesting an exemption that would allow, on a one-time basis, the routine biannual Updated Final Safety Analysis Report (UFSAR) and Technical Specification (TS) Bases updates to be submitted past their currently required submittal date, although still within 24 months since the previous submittals. The Enclosure contains a detailed description of the proposed exemption, background, basis for the request, and environmental assessment.

PG&E makes no new or revised regulatory commitments (as defined by NEI 99-04) in this letter.

Please contact Hossein Hamzehee, Regulatory Services Manager, at (805) 545-4720, with any questions regarding this letter.

Sincerely,



Paula Gerfen

Enclosure

cc: Diablo Distribution

cc/enc: Scott A. Morris, NRC Region IV Administrator
Christopher W. Newport, NRC Senior Resident Inspector
Balwant K. Singal, NRC Senior Project Manager

Request for Exemption from 10 CFR Part 50.71(e)

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1. PROPOSED EXEMPTION

In accordance with 10 CFR 50.12, "Specific exemptions," paragraph (a)(1), Pacific Gas and Electric Company (PG&E) is requesting U.S. Nuclear Regulatory Commission (NRC) approval of an exemption from certain requirements of 10 CFR 50.71, "Maintenance of records, making of reports," paragraph (e)(4), related to the schedule for submitting periodic updates to the Diablo Canyon Power Plant (DCPP), Units 1 and 2, Updated Final Safety Analysis Report (UFSAR) and Technical Specification (TS) Bases.

10 CFR 50.12(a)(1) states that the NRC 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 authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

The proposed exemption would allow the submittal of the DCPP Units 1 and 2 UFSAR, Revision 25, and TS Bases, Revision 12, to be submitted greater than six months following the most recent Unit 2 refueling outage, but no later than 24 months since the previous updates submitted September 11, 2018. This exemption is being requested as a result of COVID-19 impacts on the ability to submit the updates while plant staff is complying with the associated shelter-in-place orders.

2. BACKGROUND

On January 31, 2020, the United States Department of Health and Human Services declared a public health emergency for the United States to aid the nation's healthcare community in responding to the COVID-19 outbreak (Reference 6.5). Subsequent to the above declaration the following additional events related to the COVID-19 virus have taken place:

- On March 4, 2020, California Governor declared a State of Emergency.
- On March 11, 2020, COVID-19 outbreak was characterized as a pandemic by the World Health Organization.
- On March 13, 2020, San Luis Obispo County Emergency Services Director proclaimed a local emergency and the County Health Officer declared a Local Health Emergency.
- On March 18, 2020, San Luis Obispo County Emergency Services Director issued a Shelter-in-Place Order for county residents.
- On March 19, 2020, California Governor issued Executive Order-N33-20, which ordered all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors.

As a result of the unprecedented circumstances associated with the COVID-19 virus, and the limitations associated with working remotely while plant staff complies with mandatory shelter-in-place orders, PG&E will be unable to complete and submit the updates of the UFSAR and TS Bases to the NRC by June 15, 2020.

3. BASIS FOR EXEMPTION

10 CFR 50.71(e)(4) states:

(e) Each person licensed to operate a nuclear power reactor under the provisions of § 50.21 or §50.22, and each applicant for a combined license under part 52 of this chapter, shall update periodically, as provided in paragraphs (e) (3) and (4) of this section, the final safety analysis report (FSAR) originally submitted as part of the application for the license, to assure that the information included in the report contains the latest information developed. This submittal shall contain all the changes necessary to reflect information and analyses submitted to the Commission by the applicant or licensee or prepared by the applicant or licensee pursuant to Commission requirement since the submittal of the original FSAR, or as appropriate, the last update to the FSAR under this section. The submittal shall include the effects of all changes made in the facility or procedures as described in the FSAR; all safety analyses and evaluations performed by the applicant or licensee either in support of approved license amendments or in support of conclusions that changes did not require a license amendment in accordance with § 50.59(c)(2) or, in the case of a license that references a certified design, in accordance with § 52.98(c) of this chapter; and all analyses of new safety issues performed by or on behalf of the applicant or licensee at Commission request. The updated information shall be appropriately located within the update to the FSAR.

(4) Subsequent revisions must be filed annually or 6 months after each refueling outage provided the interval between successive updates does not exceed 24 months. The revisions must reflect all changes up to a maximum of 6 months prior to the date of filing. For nuclear power reactor facilities that have submitted the certifications required by § 50.82(a)(1), subsequent revisions must be filed every 24 months.

The exemption request is associated with the submittal schedule requirements contained in 10 CFR 50.71(e)(4), which requires that revisions to the UFSAR be filed annually or 6 months after each refueling outage provided the interval between successive updates does not exceed 24 months.

DCPP is a two-unit plant sharing a common UFSAR. PG&E is required to submit an update of the DCPP UFSAR within 6 months following each Unit 2 refueling outage.

The next UFSAR and TS Bases submittals are currently required to be submitted by June 15, 2020.

The last periodic DCPD UFSAR and TS Bases updates were submitted to the NRC on September 11, 2018, following the associated March 2018 Unit 2 refueling outage.

Based on PG&E's proposed exemption, the next DCPD UFSAR and TS Bases updates would be submitted on or before September 11, 2020, and thus would not exceed the 24 months since the previous submittal, consistent with the requirements of 10 CFR 50.71(e)(4).

10 CFR 50.12(a)(2) states:

- (a) 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 –
- (2) The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever—
 - (ii) 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, ...

In accordance with 10 CFR 50.12(a)(1), the NRC may grant exemptions from certain requirements of the 10 CFR 50 regulations that are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

1. This exemption request is authorized by law:

In accordance with 10 CFR 50.12, the NRC may grant an exemption from the requirements of 10 CFR 50, if the exemption is authorized by law. The proposed exemption is authorized by law in that no other prohibition of law exists to preclude the activities which would be authorized by the exemption.

The proposed exemption will continue to serve the underlying purpose of the regulation. The underlying purpose of the rule is to ensure that licensees periodically update their UFSARs to assure they remain up-to-date such that they accurately reflect the plant design and operation.

As required by 10 CFR 50.71 (e)(4), UFSAR updates shall be submitted within 6 months following each refueling outage provided the interval between successive updates does not exceed 24 months. Submitting an update to the UFSAR and the

TS Bases greater than six months following the most recent Unit 2 refueling outage as proposed and not exceeding 24 months between successive updates continues to meet the underlying purpose of the regulation from the perspective of maintaining UFSAR information up-to-date.

Therefore, this exemption request is authorized by law.

2. This exemption request will not present an undue risk to the public health and safety:

The UFSAR describes methods for conforming with applicable NRC regulations and contains the technical information required by 10 CFR 50.34(b), including information that describes the facility, presents the design bases and the limits on its operation, and presents the safety analyses of the structures, systems and components and of the facility. The TS Bases provide supporting information to the Technical Specifications and are updated on a frequency consistent with the UFSAR. The NRC has promulgated rule changes (i.e., 10 CFR 50.71 (e)), which requires licensees to update their UFSARs periodically to assure that the information provided is the latest material developed. As noted above, 10 CFR 50.71(e) requires licensees to periodically update their UFSARs in order to maintain information up-to-date. Based on the specific requirements, the NRC has determined that an update frequency not exceeding 24 months between successive updates to be acceptable for maintaining the UFSAR content up-to-date. The proposed exemption provides an equivalent level of protection to the existing requirements and meets the primary intent of the 10 CFR 50.71(e)(4) rule.

Therefore, this exemption request will not present an undue risk to the public health and safety.

3. This exemption request is consistent with the common defense and security:

This exemption requests NRC approval to permit a one-time extension to the periodic updates of the DCP, Units 1 and 2, UFSAR and TS Bases to be submitted beyond 6 months following completion of the most recent DCP Unit 2 refueling outage, but not to exceed 24 months from the previous submittals. Allowing the one-time exemption would maintain the DCP UFSAR and TS Bases within 24 months of the last revision and would not exceed a 24-month interval. The proposed exemption provides an equivalent level of protection to the existing regulation and should be considered acceptable.

Therefore, the common defense and security are not affected by this exemption request.

As a result of the unprecedented circumstances noted above, and the associated limitations with the shelter-in-place order and working remotely, PG&E will be unable to

complete and submit the update of the UFSAR and TS Bases to the NRC by June 15, 2020. Therefore, special circumstances exist in that application of the requirements would not serve the underlying purpose of the rule and a one-time exemption will not impede the ability to achieve the underlying purpose of the rule.

4. ENVIRONMENTAL ASSESSMENT

Pursuant to 10 CFR 51.22(c)(25), an exemption from NRC regulations is subject to a categorical exclusion from the preparation of an environmental assessment or an environmental impact statement if: (i) there is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve: ... (B) Reporting requirements.

As demonstrated below, each of these provisions in 10 CFR 51.22(c)(25) is satisfied by this exemption request. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the proposed exemption.

1. The exemption does not involve a significant hazards consideration.

As provided in 10 CFR 50.92, an action involves a significant hazards consideration if it would: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of one-time accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. As demonstrated below, none of these criteria apply to this exemption.

The proposed one-time exemption would allow the UFSAR and TS Bases updates to be submitted greater than 6 months from the most recent Unit 2 refueling outage, but within two years of the most recent submittals. This one-time exemption does not involve any physical change in the facility and does not alter the design basis. Therefore, the exemption does not involve an increase in the probability or consequences of an accident, create the possibility of a new or different kind of accident, or a reduction in a margin of safety.

2. The exemption does not involve a significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

This proposed one-time exemption does not involve any physical change in the facility or in the procedures governing operation of the facility. Therefore, the exemption does not involve a significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

3. The exemption does not involve a significant increase in individual or cumulative public or occupational radiation exposure.

This proposed one-time exemption does not involve any physical change in the facility or in the procedures governing operation of the facility. Therefore, this exemption does not involve a significant increase in individual or cumulative public or occupational radiation exposure.

4. The exemption does not involve a significant construction impact.

This proposed one-time exemption does not involve any physical change in the facility or the manner in which the facility will be constructed. Therefore, the exemption does not involve a significant construction impact.

5. The exemption does not involve a significant increase in the potential for or consequences from radiological accidents.

This proposed one-time exemption does not involve any physical change in the facility or in the procedures governing operation of the facility. Therefore, the exemption does not involve a significant increase in the potential for or consequences from radiological accidents.

6. The requirements from which the exemption is sought involve reporting requirements.

This proposed one-time exemption pertains to the requirement to periodically update the UFSAR and TS Bases as required by 10 CFR 50.71(e). Therefore, the request involves the activities described in 10 CFR 51.22(c)(25)(vi)(B).

5. CONCLUSION

Pursuant to the provisions of 10 CFR 50.12, PG&E is requesting a one-time exemption from 10 CFR Part 50.71(e) for the DCP Units 1 and 2 UFSAR and TS Bases. Based on the considerations discussed above, the requested exemption is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest.