



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

June 2, 2020

Mr. James M. Welsch
Senior Vice President, Generation
and Chief Nuclear Officer
Pacific Gas and Electric Company
Diablo Canyon Nuclear Power Plant
P.O. Box 56, Mail Code 104/6
Avila Beach, CA 93424

SUBJECT: DIABLO CANYON NUCLEAR POWER PLANT, UNITS 1 AND 2 – APPROVAL
OF EXEMPTION FROM THE REQUIREMENTS OF 10 CFR 50.71(e)(4)
(EPID L-2020-LLE-0059 [COVID-19])

Dear Mr. Welsch:

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has approved the requested exemption from the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.71, “Maintenance of records, making of reports,” paragraph (e)(4). This exemption allows Pacific Gas and Electric Company (PG&E, the licensee) to submit revisions of the Updated Final Safety Analysis Report (UFSAR) and Technical Specification (TS) Bases for the Diablo Canyon Nuclear Power Plant, Units 1 and 2 (Diablo Canyon) later than they would otherwise be required. This action is in response to your application dated May 14, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20135H021).

The regulations in 10 CFR 50.12, “Specific exemptions,” state that the NRC may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, 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 and when special circumstances are present.

The regulations in 10 CFR 50.71(e)(4) state, in part, that revisions of the UFSAR “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.” Diablo Canyon TS 5.5.14 states, in part, that “Changes to the [TS] Bases implemented without prior NRC approval shall be provided to the NRC on a frequency consistent with 10 CFR 50.71(e).”

Consistent with 10 CFR 50.71(e)(4) and TS 5.5.14, the Diablo Canyon UFSAR, Revision 25, and TS Bases, Revision 12, are required to be submitted by June 15, 2020. The requested exemption from the requirements of 10 CFR 50.71(e)(4) would allow the submission of these revisions greater than 6 months following the most recent Diablo Canyon, Unit 2 refueling outage, but no later than 24 months since the previous revisions were submitted on September 11, 2018. The licensee stated that this exemption was requested as a result of the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE), which impacted its

ability to submit the revisions on time while its staff is complying with associated shelter-in-place orders.

The underlying purpose of 10 CFR 50.71(e)(4) is to ensure that licensees maintain a current plant status document that is coordinated with plant changes, the majority of which are affected during refueling outages. The requested exemption from the requirements of 10 CFR 50.71(e)(4) would serve this purpose because it would only be effective until September 11, 2020, which is after the most recent refueling outage but still 24 months from when the previous updates were submitted. The NRC staff determined that the exemption is permissible under the Atomic Energy Act of 1954, as amended, and that no other prohibition of law exists to preclude the activities that would be authorized by the exemption. Therefore, the NRC staff finds that the requested exemption is authorized by law.

The UFSAR describes methods for conforming with applicable NRC regulations and contains the technical information required by 10 CFR 50.34(b), "Final safety analysis report," 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 as a whole. The TS Bases are a summary statement of the bases or reasons for the TSs and, per TS 5.5.14, for Diablo Canyon, are updated on a frequency consistent with the UFSAR. Paragraph 50.71(e)(4) of 10 CFR is a reporting requirement and its exemption would not affect the probability of postulated accidents or the consequences of postulated accidents because there would be no change in the types of accidents previously evaluated. Therefore, the NRC staff finds that the requested exemption will not present an undue risk to the public health and safety and is consistent with the common defense and security.

The licensee explained that, as a result of the unprecedented circumstances due to the impacts of the COVID-19 PHE, and the associated shelter-in-place orders and licensee staff having to work remotely, it will be unable to complete and submit to the NRC the updates of the Diablo Canyon UFSAR and TS Bases by June 15, 2020. The requested exemption from the requirements of 10 CFR 50.71(e)(4) would result in benefit to the public health and safety by not conflicting with practices recommended by the Centers for Disease Control and Prevention (CDC) to limit the spread of COVID-19¹ and would not result in any decrease in safety. The requested exemption would also provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation. Therefore, consistent with 10 CFR 50.12(a)(2)(iv) and (v), the NRC staff finds that special circumstances are present.

Granting the requested exemption from the requirements of 10 CFR 50.71(e)(4) is categorically excluded under 10 CFR 51.22(c)(25) and there are no extraordinary circumstances present that would preclude reliance on this exclusion. The NRC staff determined, per 10 CFR 51.22(c)(25)(vi)(B), that the requirements from which the exemption is sought involve reporting requirements. The NRC staff also determined that approval of the requested exemption involves no significant hazards consideration; no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; no significant increase in individual or cumulative public or occupational radiation exposure; no significant construction impact; no significant increase in the potential for or consequences from radiological accidents. In addition, the NRC staff determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. As such, there are no extraordinary circumstances present that would

¹ CDC, "How to Protect Yourself and Others," April 18, 2020 (ADAMS Accession No. ML20125A069).

preclude reliance on this categorical exclusion. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of the requested exemption.

Based on the above, the NRC staff finds that 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 that special circumstances are present.

The exemption is effective upon issuance until September 11, 2020.

Sincerely,

Craig G. Erlanger, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-275 and 50-323

cc: Listserv

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***email concurrence**

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