

**From:** [Richardson, Michael](#)  
**To:** [Lee, Samson](#)  
**Cc:** [Richardson, Michael](#); [Morris, James](#)  
**Subject:** [External\_Sender] RE: NOED option  
**Date:** Friday, August 07, 2020 5:42:22 AM  
**Attachments:** [image001.png](#)

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Sam,

Can we get a clarification on the NRC position regarding LAR, Exigent LAR, Emergency LAR vs. NOED process? If needed, it may be appropriate to have a call on Friday 8/7/2020 to discuss.

When the issue discussed below originally was identified, PG&E was working on a contingency NOED. In other words, we anticipated a potential need for enforcement discretion or regulatory relief within a short time frame.

Subsequently, based on early communications, we started working on an emergency LAR. The reason for working on an emergency LAR was there was sufficient time to submit an emergency license amendment request, receive approval, and process changes, which would address "licensees should recognize that the NRC staff will consider the licensee efforts to address the situation with a licensing process and likelihood of being able to process the request within the time allotted in determining whether the NOED process is appropriate."

Based on our discussion today, you indicated that an emergency LAR may not be appropriate at this time because we would not meet the criteria for submitting under an emergency circumstance (ex., in a TS Condition which would result in derating or shutdown of a unit).

PG&E has reviewed the guidance we consider to be applicable as discussed below:

LIC 101, Section 3.5 states:

If a licensee believes that a proposed amendment is needed even sooner than can be issued under exigent circumstances, the licensee may apply for the amendment per the provisions of 10 CFR 50.91(a)(5).

This regulation states, in part, that: Where the Commission finds that an emergency situation exists, in that failure to act in a timely way would result in derating or shutdown of a nuclear power plant, or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, it may issue a license amendment involving no significant hazards consideration without prior notice and opportunity for a hearing or for public comment. In such a situation, the Commission will not publish a notice of proposed determination on no significant hazards consideration, but will publish a notice of issuance under § 2.106 of this chapter, providing for opportunity for a hearing and for public comment after issuance.

Based on the above, an emergency License Amendment request would be consistent with "If a licensee believes that a proposed amendment is needed even sooner than can be issued under exigent circumstances, the licensee may apply for the amendment per the provisions of 10 CFR 50.91(a)(5)."

PG&E is concerned, because clearly, a LAR or even exigent LAR would not be appropriate given the need for approval is less than 30 days. The regulatory options available appear to be either 1) submit an emergency LAR to address an issue which could result in derating or shutdown of a nuclear power plant, or 2) prepare but wait until circumstances exist which would require immediate action (NOED process).

This is a bit of a catch 22, where the LAR and exigent LAR process are clearly not appropriate given the timeframe, and there is question about whether an emergency LAR should be submitted under the current circumstances (potential to result in a derating or shutdown of the unit versus condition that would result in derating or shutdown of the unit).

Currently, PG&E is working to prepare an emergency LAR, as it is the only process which we can take action under currently, and would like to provide the NRC with as much review time as possible to make an appropriate determination. If it is deemed not appropriate to submit an emergency LAR at this time based on interpretation of 10 CFR 50.91(a)(5), the only other option we see available is to perform the planned extent of condition investigations, and, if conditions are identified that would invoke TS 3.7.5 Condition D (two AFW trains inoperable resulting in an action to be in MODE 3 in 6 hours), request enforcement discretion.

PG&E is making every effort to ensure that we do not find ourselves in a position where an amendment could have been submitted "to simply wait for a NOED to be the only viable process." However, if we are outside of the

timeframe for submitting a LAR or exigent LAR, and the emergency LAR is not viable due to being not in an existing condition, the only option available is to defer to TS entry conditions being met, and enter the NOED process (because at that time, emergency LAR would be excluded as an option (<72 hours)).

- In other words, we are past the timeframe where a LAR or Exigent LAR would be appropriate because our need for approval is less than 30 days.
- If we wait until the condition is identified, we would be required by TS to immediately enter into a 6-hour action to be in MODE 3, which is a timeframe typically covered by the NOED process.
- 6 hours is insufficient time, even if a standard LAR has been submitted, to submit a supplement revising the request for the LAR be processed on an emergency basis, receive NRC review and approval, and implement changes to the LA and Operating Licenses in time to preclude derating or shutting down the plant.

Details:

On July 23, 2020, with DCPD Unit 2 in Mode 3, an approximately two gallon per minute through-wall leak was observed coming out of the elbow just downstream of valve LCV-111 in the discharge line for Unit 2 AFW Pumps 2-1 and 2-2 to Steam Generator 2-2. The unit was transitioned to Mode 4 in accordance with DCPD Technical Specification (TS) Sec. 3.7.5, Required Action D.2. Station management made the decision to perform a permanent repair of the AFW leak during the existing forced outage.

An Extent of Condition (EOC) Investigation performed for the Unit 2 AFW piping leak identified no additional leaks. However, six additional locations were identified in the Unit 2 AFW system where repairs were required because pipe wall thickness did not meet minimum code requirements. The repairs were completed and inspected, and the affected AFW trains were returned to operable status on July 31, 2020.

An EOC investigation is now being planned for DCPD Unit 1. While the planning and preparation for that EOC investigation are in progress, station management made the decision to prepare and submit this license amendment request (LAR) for NRC review on an emergency basis in accordance with 10 CFR 50.91(a)(5). Emergency review is appropriate because:

- (1) If similar below-minimum pipe wall thicknesses are found on the Unit 1 AFW system, based on the time-to-repair experience we gained in Unit 2, it is likely that TS 3.7.5 Required Actions B.1 or D.1 would result in the shutdown of the unit;
- (2) This LAR is timely submitted; that is, PG&E has not "abused the emergency provision by failing to make timely application for the amendment and thus itself creat[ed] the emergency"; and
- (3) The background above reasonably "explain[s] why this emergency situation occurred and why [PG&E] could not avoid this situation."

Based on the above, PG&E believes that either it is appropriate to: 1) submit an emergency license amendment request now while there is time for NRC to review and approve the LAR, and PG&E to implement the amendment, or 2) wait until the inspections, and should we encounter the condition that puts DCPD Unit 1 in TS 3.7.5, Condition D (be in MODE 3 in 6 hours, and be in MODE 5 in 18 hours), utilize the NOED process.

Thanks,

**Michael Richardson**

Supervisor, Regulatory Services  
Pacific Gas & Electric Company  
Diablo Canyon Power Plant

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**From:** Richardson, Michael

**Sent:** Thursday, August 6, 2020 11:27 AM

**To:** Lee, Samson <Samson.Lee@nrc.gov>

**Cc:** Richardson, Michael (mjrm@pge.com) <mjrm@pge.com>; Morris, James <JY1E@pge.com>

**Subject:** RE: NOED option

Sam,

PG&E is in the process of preparing an emergency license amendment request. Our plan is to submit the LAR by close of business on Tuesday 8/11/2020, with a requested approval by Tuesday 8/18/2020. The timing for the request is based on planned start of extent of condition investigation of Unit 1 AFW piping starting on 8/19/2020.

The emergency LAR would request a revision to TS 3.7.5, creating a new condition, applicable once during the current fuel cycle. Attached is the current draft of the condition, which would only apply to a condition affecting the AFW flow path to a single steam generator (SG 1-2) with SG 1-1, 1-3, and 1-4 available.

The LAR will be a risk informed LAR.

AFW System  
3.7.5

**ACTIONS (continued)**

CONDITION	REQUIRED ACTION	COMPLETION TIME
<p>G. -----NOTE----- This Condition is only applicable to Unit 1 once during Unit 1 Cycle 22. ----- One or two AFW trains inoperable in MODE 1, 2, or 3 due to inoperable AFW piping affecting the AFW flow path to one steam generator.</p>	<p>G.1 Isolate AFW to affected steam generator. <u>AND</u> G.2 Restore AFW train(s) to OPERABLE status.</p>	<p>2 hours  7 days</p>

I will call you this afternoon to discuss. Please let me know if there is any information you need.

Thanks,  
Michael Richardson  
(Cell) 805-440-3447

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**From:** Lee, Samson <[Samson.Lee@nrc.gov](mailto:Samson.Lee@nrc.gov)>  
**Sent:** Tuesday, August 4, 2020 1:11 PM  
**To:** Richardson, Michael <[MJRM@pge.com](mailto:MJRM@pge.com)>  
**Subject:** NOED option

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Michael,

I found out it is not appropriate for a licensee to plan on using a NOED. If the licensee is not currently in the action statement, the licensee has enough time to submit an amendment to support the inspection or repair. Section 2.2 of the NOED procedure provides guidance (ML19193A023):

Licensees should recognize that the NRC staff requires sufficient time to consider a NOED request and render a decision. The NRC staff should not exclude the NOED process solely because the licensee had prior knowledge that could have prevented the situation or because the time until the NOED is needed is short. However, licensees should recognize that the NRC staff will consider the licensee efforts to address the situation with a licensing process and likelihood of being able to process the request within the time allotted in determining whether the NOED process is appropriate. It is not appropriate for a licensee who is in a situation where an amendment could be submitted to simply wait for a NOED to be the only viable process. Additionally, NOEDs shall not be used for operational expediency.

Please let me know if you have any questions.

Thanks,  
Sam