



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

March 3, 2021

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 – EXEMPTION FROM ANNUAL FORCE-ON-FORCE EXERCISE REQUIREMENT OF 10 CFR PART 73, APPENDIX B, “GENERAL CRITERIA FOR SECURITY PERSONNEL,” SUBSECTION A.7 (EPID L-2021-LLE-0008 [COVID-19])

Dear Mr. Welsch:

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has approved the requested temporary exemption from a specific requirement of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, Appendix B, Section VI, “Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties,” for Diablo Canyon Nuclear Power Plant, Units 1 and 2 (Diablo Canyon), for calendar year (CY) 2021. This action is in response to Pacific Gas and Electric Company’s (the licensee) application dated February 4, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21035A375 (non-public, withheld under 10 CFR 2.390)), that requested an exemption from 10 CFR Part 73, Appendix B, Section VI, subsection A.7, regarding the timeframe for conducting the annual force-on-force (FOF) exercises scheduled for the first quarter of CY 2021 at Diablo Canyon, as required by 10 CFR Part 73, Appendix B, Section VI, subsection C.3(l)(1).

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsections A.7 and C.3.(l)(1), respectively, state, in part:

Annual requirements must be scheduled at a nominal twelve (12) month periodicity. Annual requirements may be completed up to three (3) months before or three (3) months after the scheduled date. However, the next annual training must be scheduled twelve (12) months from the previously scheduled date rather than the date the training was actually completed.

Each member of each shift who is assigned duties and responsibilities required to implement the safeguards contingency plan and licensee protective strategy participates in at least . . . one (1) force-on-force exercise on an annual basis. Force-on-force exercises conducted to satisfy the NRC triennial evaluation requirement can be used to satisfy the annual force-on-force requirement for the personnel that participate in the capacity of the security response organization.

The purpose of the annual licensee-conducted FOF exercises is to ensure that the site security force maintains its contingency response readiness. Participation in these exercises also supports the requalification of security force members.

On January 31, 2020, the U.S. Department of Health and Human Services declared a Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) for the United States. Subsequently, the Centers for Disease Control and Prevention issued recommendations (e.g., social distancing, limiting assemblies) to limit the spread of COVID-19.

The licensee's application dated February 4, 2021, stated the following, in part:

- Although [Diablo Canyon] conducted 2020 annual FOF exercises on January 23, 2020, and February 19, 2020, prior to the onset of the PHE, [Diablo Canyon] was unable to conduct the remainder of the 2020 FOF exercises due to the COVID-19 restrictions in place. [Diablo Canyon] subsequently applied for, and received, exemption for 2020 FOF exercises [ADAMS Accession No. ML20346A024].
- [Diablo Canyon] was scheduled to complete three annual FOF exercises in the first quarter of 2021. However, these exercises have been postponed, since the PHE has not ended and continues to impact [Diablo Canyon's] ability to safely conduct annual FOF exercises. [Diablo Canyon] requests a temporary exemption from conducting 2021 annual FOF exercises in the timeframe required in 10 CFR [Part] 73, Appendix B, Section VI, Subsection A.7.
- [Granting] this exemption will continue to support the isolation protocols necessary to protect essential site personnel while [Diablo Canyon] continues to plan annual exercises that will allow personnel to stay within the [COVID-19] protocols. These restrictions are needed to ensure personnel are isolated from the COVID-19 disease and remain capable of maintaining plant security. In addition, [granting] this temporary exemption request will allow [Diablo Canyon] time to develop a plan to conduct annual FOF exercises with additional artificialities and simulations as described in RG [Regulatory Guide] 5.75, "Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities," and as described during the public meeting held December 3, 2020 [ADAMS Accession No. ML20329A366].
- The COVID-19 infection rates in San Luis Obispo (SLO) County have continued at a high level, keeping SLO County in the state's highest infection rate category (purple - widespread).
- The proposed temporary exemption will apply specifically to security personnel that are currently qualified in accordance with Appendix B to Part 73. Impacted security personnel continue to maintain proficiency with the knowledge, skills and abilities required to effectively implement the protective strategy to protect the station against the design-basis threat as described in 10 CFR 73.1, "Purpose and Scope," because [Diablo Canyon]

has continued to conduct the following training requalification requirements of Section VI. of Appendix B to Part 73:

- Quarterly tactical response drills (Tabletop drills)
 - Annual daylight qualification courses
 - Annual night fire qualification courses
 - Annual task performance evaluations
 - Annual physical and fitness testing
 - Annual critical task exams
 - Quarterly weapons range activities
 - Discussions regarding the fundamentals of marksmanship
- [Diablo Canyon] will complete annual FOF exercises affected by this exemption by June 30, 2021. In addition, [Diablo Canyon] will maintain a list of the names of the individuals who will not meet the requirements of 10 CFR Part 73, Appendix B, Section VI, Subsection C.3.(I)(5) and Subsection A.7.

This temporary exemption is specific to FOF exercises previously scheduled for the first quarter of CY 2021 and Diablo Canyon security personnel who have previously demonstrated proficiency and are currently qualified in accordance with the requirements of 10 CFR Part 73, Appendix B, Section VI. The licensee stated that the proposed exemption is related only to the scheduled conduct of annual FOF exercises and does not change Diablo Canyon's physical security plans or the defensive strategy; security personnel impacted by this request are currently qualified on all required tasks; impacted security personnel continue to maintain proficiency with the knowledge, skills, and abilities required to effectively implement the protective strategy to protect Diablo Canyon against the design-basis threat because Diablo Canyon has continued to conduct other security training requalification requirements; and security personnel will continue to be monitored regularly by supervisory personnel and have implemented controls as identified in the approved temporary exemption. Therefore, the licensee stated that granting the requested temporary exemption will not endanger or compromise the common defense or security or safeguarding of Diablo Canyon. Additionally, the February 4, 2021, request provided supporting information consistent with the NRC staff's November 10, 2020, letter (ADAMS Accession No. ML20261H515).

Pursuant to 10 CFR 73.5, "Specific exemptions," the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 that is authorized by law. The NRC staff has reviewed the exemption request and finds that granting the proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or other laws. Therefore, the NRC staff finds that the exemption is authorized by law.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 when the exemption will not endanger life or property or the common defense and security. This exemption will only apply to licensee security personnel who are already satisfactorily qualified in accordance with the security requirements in 10 CFR Part 73, Appendix B, Section VI. Based on this fact, and its review of the controls that the licensee will

implement to ensure contingency response readiness for the duration of the exemption, including continuing to conduct quarterly tactical response drills and other security requalification requirements, the NRC staff has reasonable assurance that the security force at Diablo Canyon will maintain its proficiency and readiness to implement the licensee's protective strategy and adequately protect the site. Therefore, the NRC staff concludes that the proposed exemption would not endanger life or property or the common defense and security.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 when the exemption is otherwise in the public interest. The NRC staff finds that the temporary exemption from 10 CFR Part 73, Appendix B, Section VI, subsection A.7, for the timeframe required to conduct annual FOF exercises in the first quarter of CY 2021 until June 30, 2021, would facilitate the licensee's efforts to maintain a healthy workforce capable of operating the plant safely and implementing the site's protective strategy by isolating security personnel from potential exposure to the COVID-19 virus. The NRC staff concludes that granting the exemption allowing postponement of the first quarter CY 2021 FOF exercises until June 30, 2021, is otherwise in the public interest because it allows the licensee to maintain the required security posture at Diablo Canyon, while enabling the facility to continue to provide electrical power to the Nation.

Environmental Considerations

NRC approval of this exemption request is categorically excluded under 10 CFR 51.22(c)(25), and there are no special circumstances present that would preclude reliance on this exclusion. The NRC staff determined, per 10 CFR 51.22(c)(25)(vi)(E), that the requirements from which the exemption is sought involve education, training, experience, qualification, requalification, or other employment suitability requirements. The NRC staff also determined that approval of this exemption request involves no significant hazards consideration because it does not authorize any physical changes to the facility or any of its safety systems, nor does it change any of the assumptions or limits used in the facility licensee's safety analyses or introduce any new failure modes. There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite because this exemption does not affect any effluent release limits as provided in the facility licensee's technical specifications or by the regulations in 10 CFR Part 20, "Standards for Protection Against Radiation." There is no significant increase in individual or cumulative public or occupational radiation exposure because this exemption does not affect limits on the release of any radioactive material or the limits provided in 10 CFR Part 20 for radiation exposure to workers or members of the public. There is no significant construction impact because this exemption does not involve any changes to a construction permit; and no significant increase in the potential for or consequences from radiological accidents because this exemption does not alter any of the assumptions or limits in the facility licensee's safety analysis. 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. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

Conclusions

Accordingly, the NRC has determined that pursuant to 10 CFR 73.5, the temporary exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the NRC hereby grants the licensee's request to temporarily exempt Diablo Canyon from the timeframe required by 10 CFR Part 73, Appendix B,

Section VI, subsection A.7 for conducting the annual FOF exercise requirement of security personnel in subsection C.3.(l)(1) of 10 CFR Part 73, Appendix B, Section VI. This exemption applies only to those FOF exercises required to be conducted in the first quarter of CY 2021 and is valid until June 30, 2021.

If you have any questions, please contact the Diablo Canyon project manager, Samson Lee, at 301-415-3168 or Samson.Lee@nrc.gov.

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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ADAMS Accession No.: ML21047A255

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