

December 21, 2001

Mr. Harold B. Ray
Executive Vice President
Southern California Edison Company
San Onofre Nuclear Generating Station
P.O. Box 128
San Clemente, CA 92674-0128

SUBJECT: EXEMPTION FOR EMERGENCY PREPAREDNESS EXERCISE SCHEDULE
FOR SAN ONOFRE NUCLEAR GENERATING STATION, UNITS 2 AND 3 -
(TAC NOS. MB2962 AND MB2963)

Dear Mr. Ray:

The enclosed exemption (Enclosure 1) responds to your application of September 18, 2001. You requested a one-time exemption, in accordance with 10 CFR 50.12, "Specific exemptions," from the requirements in 10 CFR Part 50, Appendix E, Items IV.F.2.b and c to perform a biennial NRC-evaluated exercise of the onsite and offsite emergency plan (EP) with full participation of each offsite authority having a role under the plan (i.e., a full participation EP exercise), for San Onofre Nuclear Generating Station (SONGS), Units 2 and 3. A full participation exercise had been scheduled for SONGS for September 12, 2001; however, as a result of the national security events occurring in the United States on September 11, 2001, this exercise was canceled. You requested that the biennial exercise for 2001 not be conducted as required by Appendix E, and the next full participation exercise be conducted in 2003 and every two years thereafter.

Based on the enclosed safety evaluation (Enclosure 2), the NRC staff concludes that it cannot grant your request to cancel the full participation exercise for 2001. However, it is recognized that the September 12, 2001 full participation exercise was canceled for good cause and that there is insufficient time to reschedule the exercise within the calendar biennium, after which you would be in violation of the regulations. Your application of September 18, 2001, provided a sufficient basis for a schedular exemption from the regulations cited above. A schedular exemption to the biennial exercise requirements in Appendix E to 10 CFR Part 50 is herein granted SONGS and the exercise may be scheduled within 2002. It is requested that the exercise be conducted as soon as practical, but the challenges of rescheduling are recognized and the exemption is not predicated on early conduct of the exercise. Future exercises, however, will be performed in accordance with the existing calendar biennium (i.e., you are required to conduct the next full participation exercise in 2003).

The NRC staff has determined that the one-year extension schedular exemption would provide only temporary relief from the applicable regulation and that you made good faith efforts to comply with the regulation. Accordingly, the exemption is granted in accordance with 10 CFR 50.12(a)(2)(v). A copy of the Exemption is being forwarded to the Office of the Federal Register for publication.

Harold B. Ray

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We are aware that five local support agencies and the Governor of California's Office of Emergency Services may request an exemption from Federal Emergency Management Agency (FEMA) regulations that require the conduct of a full participation exercise. If FEMA should approve such a request, we will address the effect upon the requirements for the postponed full participation exercise, in a future letter. However, it would appear that this exemption would allow sufficient time to reschedule the exercise in a manner that would not unduly disrupt local support agency primary missions. The local support agencies also expressed a concern regarding FEMA's use of a new exercise evaluation methodology in 2002. FEMA has stated that the old evaluation methodology can be used for postponed exercises if requested by the affected agencies.

If you have any questions about the exemption, please contact me at 301-415-1307, or through the internet at jnd@nrc.gov.

Sincerely,

/RA by Stephen Dembek for/

Jack Donohew, Senior Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-361 and 50-362

Enclosures: 1. Exemption
2. Safety Evaluation

cc w/encls: See next page

Harold B. Ray

- 2 -

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Exemption Safety Evaluation based on EPHP Memo date 11/15/2001 (ML013190575)

ACCESSION NO: ML013230472

*** See previous concurrence**

OFFICE	PDIV-2/PM	PDIV-1/LA	EPHP/SC	OGC	PDIV-2/SC	PDIV/PD	DLPM/D
NAME	JDonohew	MMcAllister	KGibson*	AHodgdon*	SDembek	SRichards	LBMarsh for JZwolinski
DATE	12/18/2001	12/19/01	12/07/01	12/13/01	12/18/01	12/19/01	12/21/01

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
Southern California Edison Company)	Docket Nos. 50-361 and 50-362
)	
)	
(San Onofre Nuclear Generating Station,)	
Units 2 and 3))	

EXEMPTION

I.

Southern California Edison Company (the licensee) is the holder of Facility Operating License Nos. NPF-10 and NPF-15, which authorize operation of the San Onofre Nuclear Generating Station, Units 2 and 3, (SONGS) at power levels not to exceed 3438 megawatts thermal. The facility consists of two pressurized-water reactors located at the licensee's site in San Diego County, California. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

II.

Section IV.F.2.b of Appendix E to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50 requires each licensee at each site to conduct an exercise of its onsite emergency preparedness plan (EPP) every 2 years and indicates the exercise may be included in the full participation biennial exercise of the offsite EPP required by paragraph 2.c. Paragraph 2.c requires the offsite EPP for each site to be exercised biennially with full participation by each

offsite authority having a role under the plan. During such biennial full participation exercises, the NRC evaluates onsite emergency preparedness activities and the Federal Emergency Management Agency (FEMA) evaluates offsite emergency preparedness activities. The licensee successfully conducted an NRC/FEMA-evaluated full participation exercise for SONGS on October 27, 28, and 29, 1999.

By letter dated September 18, 2001, the licensee requested an exemption from Sections IV.F.2.b and c of Appendix E regarding the conduct of a full participation onsite and offsite exercise originally scheduled for September 12, 2001. Specifically, the licensee requested a one-time exemption, in accordance with 10 CFR 50.12, "Specific exemptions," from the requirements in 10 CFR Part 50, Appendix E, Items IV.F.2.b and c to perform a biennial exercise of the onsite and offsite EPPs with full participation of each offsite authority having a role under the plan (i.e., a full participation EPP exercise), for SONGS. A full participation onsite and offsite exercise had been scheduled for SONGS for September 12, 2001; however, as a result of the national security events occurring in the United States on September 11, 2001, this exercise was canceled. The licensee requested that the biennial exercise for 2001 not be conducted as required by Appendix E, and the next full participation exercise be conducted in 2003 and every two years thereafter.

The licensee has provided the Commission with copies of letters from five local authorities that would participate in the full participation EPP exercise at SONGS, requesting relief from FEMA to cancel the 2001 SONGS full participation exercise. The letters were to the Governor's Office of Emergency Services, State of California, which in its letter dated December 13, 2001, to FEMA, requested the cancellation from FEMA for the State and the five local authorities. The State requested that the next biennial full participation exercise to be held at SONGS with NRC/FEMA participation be conducted in 2003. Although the requests from the

State and local authorities do not come under the responsibility and authority of the Commission, the Commission realizes that the full participation exercise required by Appendix E would require the participation of the State and these local authorities. The State's letter is addressed in the safety evaluation dated December 21, 2001.

Based on the safety evaluation dated December 21, 2001, the Commission concludes that the licensee's request for an exemption should be denied. However, because the scheduled 2001 full participation exercise to meet the regulations was canceled for good cause; there is insufficient time before January 1, 2002, when the licensee would be in violation of the regulations, to prepare and conduct the exercise; and the licensee has provided sufficient information for a one-year schedular extension to the requirements in the regulations, the Commission concludes that such a schedular exemption to the biennial exercise requirements in Sections IV.F.b and c of Appendix E to 10 CFR Part 50 should be granted to SONGS.

The Commission, pursuant to 10 CFR 50.12(a)(1), may grant exemptions from the requirements of 10 CFR Part 50 that are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security. The Commission, however, pursuant to 10 CFR 50.12(a)(2), will not consider granting an exemption unless special circumstances are present. Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

III.

The revised exemption is a one-time postponement of the 2001 full participation exercise for SONGS. The full participation exercise may be conducted in 2002. It is requested that the exercise be conducted as soon as practical, but the challenges of rescheduling the

exercise are recognized and the exemption is not predicated on the early conduct of the exercise. Subsequent full participation exercises for SONGS would be scheduled at no greater than 2-year intervals in accordance with 10 CFR Part 50, Appendix E, Section IV.F.2.c. The calendar biennium for SONGS would not be affected by this schedular exemption and the next full participation exercise would be required to be performed in 2003. Accordingly, the exemption would provide only temporary relief from that regulation.

As indicated in the licensee's request for an exemption of September 18, 2001, the licensee had originally scheduled a full participation exercise for September 12, 2001. As further set forth in that letter, as a result of the national security events occurring in the United States on September 11, 2001, this exercise was canceled. Accordingly, the licensee made a good faith effort to comply with the schedular requirements of Appendix E for full participation exercises.

The NRC staff has completed its evaluation of the revised exemption. The NRC staff, having considered the schedule and resource issues resulting from this schedular exemption and the fact that the licensee successfully conducted the last full participation exercise for SONGS on October 27, 28, and 29, 1999, which was evaluated by the NRC and FEMA, and conducted a full participation "dress rehearsal" exercise on August 8, 2001, in preparation for the September 12, 2001, exercise that was canceled, finds the request for a schedular exemption for rescheduling the 2001 biennial full participation exercise acceptable. The inspection/evaluation by NRC and FEMA indicated that the performance demonstrated during the 1999 exercise was a satisfactory test of the EPP. In its letter, the licensee stated that it successfully conducted the "dress rehearsal" exercise on August 8, 2001, with the same emergency planning elements that were planned for the September 12, 2001, exercise. The NRC staff also recognizes that it was not appropriate to conduct an exercise during the period

of disruption and heightened security directly after the national emergency of September 11, 2001. However, in this period of heightened security concerns regarding nuclear plant vulnerability, it is prudent to conduct the full participation exercise as soon as practical to demonstrate and maintain readiness.

IV.

The Commission has determined that, pursuant to 10 CFR Part 50, Appendix E, this 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 is otherwise in the public interest. Further, the Commission has determined, pursuant to 10 CFR 50.12(a), that special circumstances of 10 CFR 50.12(a)(v) are applicable in that the exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation. Therefore, the Commission hereby grants a one year schedular exemption from Sections IV.F.2.b and c of Appendix E to 10 CFR Part 50.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (66 FR 66000).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 21st day of December 2001.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Ledyard B. Marsh, Acting Director
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
RELATED TO SCHEDULAR EXEMPTION FROM THE REQUIREMENTS OF
10 CFR PART 50 APPENDIX E, SECTIONS IV.F.2.b AND IV.F.2.c.
SOUTHERN CALIFORNIA EDISON COMPANY
SAN ONOFRE NUCLEAR GENERATING STATION
DOCKET NOS. 50-361 AND 50-362

1.0 INTRODUCTION

By letter dated September 18, 2001, Southern California Edison, (the licensee) requested an exemption from the requirements of Appendix E, Sections IV.F.2.b and c, of Title 10 of the *Code of Federal Regulations* Part 50 (10 CFR Part 50), regarding the conduct of a full participation exercise of the onsite and offsite emergency preparedness plans (EPPs) at the San Onofre Nuclear Generating Station (SONGS), Units 2 and 3. If approved, the exemption would allow the licensee to cancel the 2001 biennial full participation exercise and conduct the next such exercise in 2003. This would potentially extend the period between the full participation exercises to as much as 50 months.

In its letter, the licensee stated that a full participation exercise had been scheduled for SONGS for September 12, 2001; however, as a result of the national security events occurring in the United States on September 11, 2001, this exercise was canceled. The licensee is among several other licensees requesting exercise exemptions in the wake of the events following the National Emergency of September 11, 2001. It is recognized that it was not appropriate to conduct an exercise during the period of disruption and heightened security directly after the National Emergency. Considering the extraordinary circumstances, reasonable schedular exemptions are expected and acceptable and, in the past, NRC has occasionally granted requests for schedular exemptions, revisions to the calendar biennium and exercise cancellations to individual licensees. However, in this period of heightened security concerns regarding nuclear plant vulnerability it is prudent to conduct the full participation exercise as soon as practical to demonstrate (and maintain) readiness and there are significant differences in the current situation:

- There are an unprecedented number of power plant sites that have requested exercise exemptions.
- The magnitude of the rescheduling effort impacts NRC's ability to effectively evaluate licensees' emergency response capabilities.

- The potential security threat to nuclear power plants nationally is unprecedented and adds urgency to the need for NRC to ensure the adequacy of licensee emergency response capabilities.
- Public confidence in the safety of nuclear power plants is a stakeholder issue that can be improved by the demonstration and evaluation of licensee emergency response capabilities.

The following is the NRC staff's evaluation of the licensee's request for an exemption to certain requirements of Appendix E for SONGS.

2.0 APPLICABLE REGULATIONS

Section IV.F.2.b of Appendix E, to 10 CFR Part 50 requires each licensee at each site to conduct an exercise of its onsite EPP every two years and indicates the exercise may be included in the full participation biennial exercise required by paragraph 2.c. of the same section. In addition, licensees are to take actions necessary to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills. Paragraph 2.c. requires the offsite EPP for each site to be exercised biennially with full participation by each offsite authority having a role under the plan. NRC inspection procedures require that inspectors evaluate onsite emergency preparedness activities during the biennial full participation exercise. The Federal Emergency Management Agency (FEMA) evaluates offsite emergency preparedness activities during the biennial full participation exercise.

The licensee is faced with a difficult task to coordinate and schedule an exercise that involves multiple government agencies at the Federal, State, and local level. Many local response organizations depend on volunteers. In order to accommodate this difficult task, the NRC has allowed licensees to schedule full participation exercises at any time during the calendar biennium. This gives the licensee the flexibility to schedule the exercise within a 12 to 36 month window and still meet the biennial requirement specified in the regulations.

The NRC may grant exemptions from the requirements of its regulations which, pursuant to 10 CFR 50.12(a), are (1) 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 (2) present special circumstances. The applicable special circumstances that are generally applicable to an exercise exemption are defined in Section 50.12(a)(2) of 10 CFR Part 50 as follows:

50.12(a)(2)(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.

50.12(a)(2)(iv) The exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the grant of the exemption.

50.12(a)(2)(v) The exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

The licensee has also analyzed the request against the following special circumstance in 50.12(a)(2):

50.12(a)(2)(iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated.

The licensee's discussion of the special circumstances was provided in its letter of September 18, 2001.

3.0 EVALUATION

3.1 Licensee's Proposed Cancellation of Exercise

The licensee successfully conducted the last full participation exercise for SONGS on October 27, 28, and 29, 1999. This exercise was evaluated by the NRC (Inspection Report Nos. 50-361/99-14 and 50-362/99-14) and FEMA (Final Report, Annual Medical Drill and Biennial and Ingestion/Recovery Exercise, July, 11, 2000). The inspection/evaluation by NRC and FEMA indicated that the performance demonstrated during the exercise was a satisfactory test of the EPP.

The licensee was scheduled to conduct a biennial full participation exercise on September 12, 2001. The licensee's requested exemption is to cancel that exercise and conduct the next exercise, which is planned for 2003. The interval between biennial exercises could be as long as 50 months, if the exercise were conducted in December of 2003. This is well outside the normal parameters of exercise conduct, in which a period of 36 months is acceptable, as long as the sequential exercises are conducted within the calendar biennium.

In its letter, the licensee provided a description of recently completed drills and training evolutions, as well as the training and drill schedule planned for the future. The licensee has stated that they are currently in compliance with all drill and exercise requirements.

The licensee has conducted training evolutions, drills, facility activations and responded to an actual plant emergency. The SONGS EPP drills were conducted as follows: July 24, 2000; August 7, 2000; August 14, 2000; April 11, 2001; April 18, 2001; April 25, 2001 and August 8, 2001 (a full scale proficiency drill). For the August 8, 2001 drill, there was full participation by local government agencies, the dose assessment facility was staffed, radiological monitoring teams from the offsite agencies were deployed, and local government Emergency Operations Centers were activated. There was, however, no NRC evaluation during this drill.

In addition, on February 3, 2001, the licensee declared an Unusual Event due to a fire in the 4KV Non-Vital Switchgear room located on the 30' elevation of the Unit 3 Turbine building. The event required implementation of the SONGS Emergency Plan. The licensee stated that extensive investigations and critiques of the SONGS Emergency Plan implementation were conducted following the fire. Review by the SONGS Emergency Planning group of the event records and the subsequent critiques concluded that all performance indicators and objectives were achieved. The licensee stated that improvement opportunities were noted and entered into the corrective action process.

The licensee stated that during the period from April 4, 2001, through May 2, 2001, 10 drills were conducted. Seven of the drills were conducted in the simulator, and three were full scale drills. All 10 drills utilized the same drill scenario, in order to provide a consistent basis for evaluation of the SONGS Emergency Response Organization and trend identification for subsequent training.

The licensee has performed an analysis of Emergency Response Organization (ERO) performance with regard to performance indicator (PI) opportunities established by the Emergency Preparedness Cornerstone of the NRC Reactor Oversight Process (ROP). Each PI opportunity was evaluated against the standards of "Regulatory Assessment Performance Indicator Guideline," NEI [Nuclear Energy Institute] 99-02 and SONGS procedures. Of 48 total opportunities, 46 were determined to be successful. The licensee identified two missed opportunities in the area of notifications to the local offsite authorities and to the State of California. Additionally, there were up to 19 Drill Objectives established for each drill. In two cases (related to the missed Performance Indicator Opportunity), a Drill Objective was not met by the ERO. Finally, the licensee noted that 32 opportunities to improve and strengthen emergency planning were identified during these drills.

On August 8, 2001, the licensee successfully completed a full scale proficiency drill. The drill included the same emergency planning elements as were planned for the September 12, 2001, exercise and all appropriate state and local offsite agencies participated in this drill. For this drill scenario, there were eight PI opportunities and all were determined to be timely and accurate. There were a total of 23 Drill Objectives established for the August 8 drill and all 23 Drill Objectives were met by the ERO. There were five instances of good performance recognized by the evaluators. There were 18 opportunities to strengthen the EPP program identified in the areas of scenario development, training, and communications. The licensee stated that these opportunities were documented in the SONGS corrective action program. The licensee also stated that federal evaluation was a missing element (i.e., there was no NRC and FEMA participation in and evaluation of the drill).

The licensee stated that Site Emergency Preparedness will conduct proficiency drills in order to maintain the knowledge and skills of the SONGS emergency response organization. All emergency response organization members will receive annual training. Prior to each drill, table top training will be performed with each drill team in order to ensure that individual attention is provided each team member and each member is properly trained in their emergency response function. These activities are similar to those that were performed for preparation of the September 12, 2001 exercise.

The licensee has supplied copies of letters from five local support agencies to the Governor's Office of Emergency Services of the State of California, requesting cancellation of the 2001 exercise. The Governor's Office of Emergency Services has requested cancellation of the exercise from FEMA for the five local support agencies and for the State.

These cancellation request letters to the State generally base the request on the need to schedule exercises far in advance to minimize disruption and costs and concern over the use of the revised FEMA Exercise Evaluation Method (EEM). The EEM is scheduled for implementation in 2002, whereas the old evaluation methodology would have been used in 2001.

The National Emergency of September 11, 2001 rendered the conduct of a nuclear plant exercise one day later, inappropriate. Postponement of the exercise was appropriate and the difficulty of immediately rescheduling the exercise was recognized. Several other licensees have requested schedular exemptions due to the National Emergency and these have been or are in the process of being granted. However, the licensee's exemption request is for much more than a schedular exemption because it requests cancellation of the full participation exercise. The next full participation exercise is planned for 2003, as much as 50 months after the last federally evaluated full participation exercise.

For an exemption request to be approved, the special circumstances described in Section 50.12(a)(2) of 10 CFR Part 50 must be present:

- With respect to 50.12(a)(2)(ii), the licensee's exemption request states that conduct of the August 8, 2001 exercise, without federal evaluation, meets the underlying purpose of the rule and fulfills the biennial exercise requirement. The NRC staff does not agree that it meets all underlying purposes of the requirement. One underlying purpose of the rule is to evaluate licensee emergency response capabilities. Due to the heightened security threat to nuclear power plants, evaluation of licensee emergency response capabilities is more urgent than might be the case during other times. Additionally, inspection of the licensee's biennial full participation exercise is required by NRC inspection procedures and has been implemented at nuclear power plants over the past 20 years in a consistent manner. The inspection of the biennial exercise is critical to verify the efficacy of the licensee response band created in the EP Cornerstone of the NRC ROP. This would have been the first exercise inspected under the ROP. Although licensee statements indicate an adequate internal oversight process, Federal evaluation cannot be replaced by the licensee's internal oversight.
- With respect to 50.12(a)(2)(iii), the licensee's exemption request states that conduct of the exercise would result in undue hardship. The NRC staff does not agree. The conduct of biennial exercises is required of all nuclear power plant sites and is not an undue hardship. While the postponement of the exercise is not without some hardship, much of the preparation work, e.g., scenario, training and practice drills, would be transferable to an exercise conducted in 2002. Several other licensees have requested schedular exemptions because of the National Emergency and these exemptions were approved, in part, because they committed to conduct an evaluated full participation exercise in 2002. Requiring SONGS to conduct an evaluated exercise in 2002 results in costs that are consistent with those of other licensees similarly situated. Further, given the unprecedented potential security threat to nuclear power plants nationally, there is some urgency for NRC exercise evaluation to ensure adequacy of licensee emergency response capabilities.
- With respect to 50.12(a)(2)(iv), the licensee described compensating measures that will be taken to maintain emergency preparedness. These measures are the existing drill program, which appears to be adequate. The licensee's analysis of the PI related to drill performance shows a program operating in the licensee response band. The drill program and the compensating measures described by the licensee are recognized as adequate to justify a schedular exemption, but do not provide a basis to justify outright cancellation of the federally evaluated full participation exercise or that justify a period as long as 50 months between such exercises. Cancellation of the exercise would be

inappropriate, especially given the present potential security threat to nuclear power plants nationally.

- With respect to 50.12(a)(2)(v), the licensee made a good faith effort to conduct the exercise and comply with regulations and the circumstances dictating the request for exemption are beyond the licensee's control. However, the licensee is requesting an exemption that would provide permanent, rather than temporary relief in canceling the full participation exercise. Such cancellation would not be appropriate given the potential security threat to nuclear power plants nationally and the need for NRC to ensure the adequacy of licensee emergency response capabilities.

3.2 State's Request to FEMA to Cancel the September 12, 2001, Biennial Exercise

The licensee has provided the Commission with copies of letters from five local authorities that would participate in the full participation EPP exercise at SONGS, requesting relief from FEMA to cancel the 2001 SONGS full participation exercise. The letters were to the Governor's Office of Emergency Services, State of California, which in its letter dated December 13, 2001, to FEMA requested the cancellation from FEMA for the State and the five local authorities. This letter was discussed with the NRC staff in the conference call held on November 29, 2001. In the letter, the State requested that the next biennial full participation exercise to be held at SONGS with NRC/FEMA participation be conducted in 2003. Although the requests from the State and local authorities do not come under the responsibility and authority of the Commission, the Commission realizes that the full participation exercise required by Appendix E would require the participation of the State and these local authorities.

The basis for the State's request to cancel the 2001 biennial full participation exercise at SONGS was the following:

1. **Exercise Completion:** The State and local authorities participated in, as the State stated, a very successful full-scale "dress rehearsal" on August 18, 2001, of the exercise scheduled for September 12, 2001. The State concluded that the State and local authorities have already participated in a full-scale exercise and would like credit for the successful exercise.
2. **Utilization of Resources:** The State stated that it has proven that it can protect its citizens with reasonable assurance through its record of success in past FEMA-evaluated exercises and the August 8, 2001, full-scale dress rehearsal based on regular exercise scenarios. This record has required an investment of resources commensurate with the complexity of the plans and procedures. The State and the local authorities view the improvement of plans and procedures related to the types of terrorist attacks of September 11, 2001, as critical to the maintenance of the public's health and safety. The State concluded that the expenditure of limited and valuable resources does not support repeating an exercise to affirm a second time the State's and local authorities' proficiency as demonstrated in the August 8, 2001, exercise.
3. **Nuclear Preparedness Program Funding:** The State stated that the preparations for a full-scale full participation FEMA-evaluated exercise require that the State and local authorities spend a full year of meticulous planning, training, and evaluating performance through drills, and another dress rehearsal, a repeat of the August 18,

2001, dress rehearsal for the scheduled September 11, 2001, exercise that was canceled. The local authorities have expended much of its annual funds supporting the nuclear preparedness program for SONGS, there is no funding in the SONGS budget to repeat the planning, training, and evaluating activities required to reschedule the exercise for 2002, and the demands on the State and local authorities related to its counter terrorism efforts have severely impacted their budgets.

4. Precedents: In 1989, FEMA granted an exercise exemption to the State and local authorities due to the impact of Loma Prieta Earthquake.
5. Impact on Exercise Schedules: The State stated that the existing practice of scheduling the full participation FEMA-evaluated exercises for SONGS and Diablo Canyon in alternating years recognizes the significant commitment of FEMA. Past experience demonstrated that the scheduling of two or more exercises in one year created workload and oversight problems for FEMA.

The request of local support agencies for exercise cancellation will be evaluated by FEMA. The NRC will not address these requests in this evaluation. FEMA has stated to the NRC that the old evaluation methodology can be used for postponed exercises to minimize the impact on the State and local authorities, if requested by the affected agencies.

Of the 5 points made by the State in its letter of December 13, 2001, the first 4 points could apply to the licensee's requested exemption to the NRC. The NRC staff, therefore, reviewed the State's first four comments to FEMA in light of the licensee's request to cancel the September 12, 2001, exercise; however, the NRC staff concluded that these points were not sufficient to change the NRC staff's conclusions stated at the end of Section 3.1. Therefore, the NRC staff finds that granting the licensee's request for an exemption from the requirement of Section IV.F.2.b and c of Appendix E to 10 CFR Part 50 to conduct a full participation emergency preparedness exercise in 2001 for the onsite and offsite EPP does not meet criteria of 10 CFR 50.12(a)(2). Further, the NRC staff concludes that cancellation of the exercise is inappropriate given the unprecedented potential security threat to nuclear power plants nationally. There is a need for NRC to evaluate the biennial exercise in a timely manner, to ensure the adequacy of licensee emergency response capabilities. Therefore, the NRC staff concludes that the licensee request for exemption should be denied.

However, it is recognized that the September 12, 2001 full participation exercise was canceled for good cause and that there is insufficient time to reschedule the exercise within the calendar biennium, after which the licensee would be in violation of the regulations. The licensee's application of September 18, 2001, provided a sufficient basis for a schedular exemption from the biennial exercise regulations. A schedular exemption to the biennial exercise requirements in Appendix E to 10 CFR Part 50 may be granted SONGS and the exercise may be scheduled within 2002. The licensee should conduct the exercise as soon as practical, but the challenges of rescheduling are recognized and the exemption is not predicated on early conduct of the exercise. Future exercises, however, will be performed in accordance with the existing calendar biennium (i.e., the licensee is required to conduct the next full participation exercise in 2003).

3.3 Conclusion

The Commission concludes that a schedular exemption to the biennial exercise requirements in Appendix E to 10 CFR Part 50 should be granted SONGS.

The NRC staff has determined that the schedular exemption would provide only temporary relief from the applicable regulation and that the licensee has made good faith efforts to comply with the regulation. Accordingly, the NRC staff has determined that an exemption may be granted in accordance with 10 CFR 50.12(a)(2)(v).

4.0 CONCLUSION

Based on the above evaluation, the NRC staff finds that granting the licensee's request for an exemption from the requirement of Section IV.F.2.b and c. of Appendix E to 10 CFR Part 50 to conduct a full participation emergency preparedness exercise in 2001 does not meet criteria of 10 CFR 50.12(a)(2). Further, the NRC staff concludes that cancellation of the exercise is inappropriate given the potential increased security threat to nuclear power plants nationally. There is a need for the NRC to evaluate the biennial exercise in a timely manner, to ensure the adequacy of licensee emergency response capabilities. The NRC staff concludes that the licensee's request for exemption to cancel the 2001 full participation exercise for the onsite and offsite EPP at SONGS should be denied. However, the NRC staff also concludes that the licensee has provided sufficient basis to grant a schedular exemption and the exercise may be conducted in 2002. However, this schedular exemption does not affect the existing calendar biennium for SONGS and the next full participation exercise should be scheduled to take place in 2003. This schedular exemption meets the special circumstances of 10 CFR 50.12(a)(v) and should be granted.

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