

January 13, 2020

PG&E Letter HBL-20-001

ATTN: Document Control Desk  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

10 CFR 50.12

Docket No. 50-133, OL-DPR-7  
Humboldt Bay Power Plant, Unit 3  
Request for Exemption from 10 CFR 50.54(w)(1), Concerning OnSite Property Damage Insurance Coverage

References:

1. NRC Letter, "Humboldt Bay Power Plant, Unit No. 3, Exemption from Property Damage Insurance Requirement (TAC-L21017)," dated August 22, 1989.

Dear Sir or Madam:

Pursuant to 10 CFR 50.12, "Specific Exemptions," Pacific Gas and Electric Company (PG&E) requests an exemption from 10 CFR 50.54(w)(1) for Humboldt Bay Power Plant (HBPP) Unit 3. In accordance with 10 CFR 50.54(w) licensees are required to obtain insurance coverage from private sources to provide financial protection covering the licensee's obligation, in the unlikely event of an accident, to stabilize and decontaminate the reactor and the reactor site. Specifically, in accordance with 10 CFR 50.54(w)(1), licensees must obtain insurance having a minimum coverage limit for each reactor site of either \$1.06 billion or whatever amount of insurance is generally available from private sources, whichever is less. This insurance coverage is referred to as onsite property damage insurance.

The underlying purpose of 10 CFR 50.54(w)(1) is to ensure that licensees maintain adequate funding for on-site post-accident recovery, stabilization, and decontamination costs following an accident at an operating nuclear power plant. However, the regulation does not take into consideration the reduced potential for, and consequences of, nuclear accidents at permanently shut down facilities.

PG&E is actively decommissioning HBPP Unit 3 with plans to terminate the 10 CFR Part 50 license in 2021. The proposed exemption would allow a reduction in the level of onsite insurance coverage for HBPP Unit 3 to a level that is commensurate with the current status of the site and the underlying purpose of the rule given the current status.



PG&E has previously been granted exemptions (see Reference 1) to 10 CFR 50.54(w)(1), for HBPP Unit 3, which have reduced the minimum onsite insurance coverage requirements to \$63,160,000. PG&E is now requesting an exemption to 10 CFR 50.54(w)(1) to further reduce the minimum onsite insurance coverage limit to \$50 million for HBPP Unit 3. The exemption request is provided in the enclosure.

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

Please contact Philippe Soenen, at (805) 459-3701, with any questions about this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'James M. Welsch'.

James M. Welsch  
*Senior Vice President, Generation and Chief Nuclear Officer*

Enclosure

cc: HBPP Humboldt Distribution  
cc/enc: John B. Hickman, NRC Project Manager  
Scott A. Morris, NRC Region IV Administrator

**Request for Exemption from 10 CFR 50.54(w)(1)  
Concerning Onsite Property Damage Insurance Coverage**

## Request for Exemption from 10 CFR 50.54(w)(1)

### 1. Purpose

Pursuant to 10 CFR 50.12, "Specific Exemptions," Pacific Gas and Electric Company (PG&E) requests an exemption from 10 CFR 50.54(w)(1) for Humboldt Bay Power Plant (HBPP) Unit 3. In accordance with 10 CFR 50.54(w) licensees are required to obtain insurance coverage from private sources to provide financial protection covering the licensee's obligation, in the unlikely event of an accident, to stabilize and decontaminate the reactor and the reactor site. Specifically, in accordance with 10 CFR 50.54(w)(1), licensees must obtain insurance having a minimum coverage limit for each reactor site of either \$1.06 billion or whatever amount of insurance is generally available from private sources, whichever is less. This insurance coverage is referred to as onsite property damage insurance.

10 CFR 50.54(w)(1) reads as follows:

*(w) Each power reactor licensee under this part for a production or utilization facility of the type described in §§ 50.21(b) or 50.22 shall take reasonable steps to obtain insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate to the satisfaction of the NRC that it possesses an equivalent amount of protection covering the licensee's obligation, in the event of an accident at the licensee's reactor, to stabilize and decontaminate the reactor and the reactor station site at which the reactor experiencing the accident is located, provided that:*

*(1) The insurance required by paragraph (w) of this section must have a minimum coverage limit for each reactor station site of either \$1.06 billion or whatever amount of insurance is generally available from private sources, whichever is less. The required insurance must clearly state that, as and to the extent provided in paragraph (w)(4) of this section, any proceeds must be payable first for stabilization of the reactor and next for decontamination of the reactor and the reactor station site. If a licensee's coverage falls below the required minimum, the licensee shall within 60 days take all reasonable steps to restore its coverage to the required minimum. The required insurance may, at the option of the licensee, be included within policies that also provide coverage for other risks, including, but not limited to, the risk of direct physical damage.*

The underlying purpose of 10 CFR 50.54(w)(1) is to ensure licensees maintain adequate funding of onsite post-accident recovery, stabilization and decontamination costs following an accident at an operating nuclear power plant. The requirements of 10 CFR 50.54(w)(1) were developed taking into consideration the risks associated with an operating nuclear power reactor, including the potential consequences of a release of radioactive material from the reactor.

This regulation does not take into consideration the reduced potential for, and consequences of, such nuclear accidents at permanently shut-down sites. HBPP Unit 3



is permanently shut-down and defueled, and all spent nuclear fuel (SNF) and Greater-Than-Class-C (GTCC) waste is stored at the Humboldt Bay (HB) Independent Spent Fuel Storage Installation (ISFSI). Plant structures have been removed and the site, including the remaining buildings has been remediated for radioactive material.

PG&E is requesting a further exemption from 10 CFR 50.54(w)(1) to reduce the minimum coverage limit of 10 CFR 50.54(w)(1) to \$50 million for HBPP Unit 3. The proposed exemption would allow a reduction in the level of onsite insurance coverage for HBPP to a level that is commensurate with the current status of the site, the underlying purpose of the rule, and the reduced potential for, and consequences of, a nuclear accident in relation to the current status of HBPP Unit 3.

## **2. Background**

HBPP Unit 3, situated on a parcel of land owned by PG&E located at 1000 King Salmon Avenue, Eureka, California, was a 63 MWe Boiling Water Reactor. Unit 3 last operated in 1976 and was permanently defueled in 1984. Transfer of SNF to the onsite ISFSI was completed in 2008 and all GTCC waste was transferred to the HB ISFSI in 2013. In addition, as stated in the HBPP Defueled Safety Analysis Report, Section 7.1, there are no postulated decommissioning accidents with potential radiological impacts to the environment (Reference 7.1). PG&E began actively decommissioning Unit 3 in June 2009 and currently plans to terminate the 10 CFR Part 50 license in 2021.

PG&E has previously been granted exemptions to 10 CFR 50.54(w)(1), which have reduced the minimum insurance requirements for HBPP Unit 3 to \$63,160,000 (Reference 7.2). PG&E is now requesting an exemption to 10 CFR 50.54(w)(1) to further reduce the minimum coverage limit of 10 CFR 50.54(w)(1) to \$50 million for HBPP Unit 3. This exemption is requested in order to allow a reduced minimum insurance limit commensurate with the significantly reduced risks associated with a site that has ceased operation, permanently defueled, and transferred all SNF and GTCC waste to the onsite ISFSI.

PG&E has also determined that this exemption, if approved, would enable cost reduction opportunities in future insurance renewals for HBPP Unit 3 due to a lower minimum level of on-site property damage coverage required for the site.

### NRC Proposed Rulemaking

NRC issued "Regulatory Improvements for Power Reactors Transitioning to Decommissioning," NRC-2015-0070, RIN 3150-AJ59, dated November 20, 2017 (Reference 7.3). In Appendix G of this Regulatory Basis Document the NRC staff assessed offsite and onsite minimum financial protection requirements for decommissioning sites and considered various options, including a two step-graded

approach (Option 2) shown in relevant detail in Table 1 below. This option would allow licensees to reduce the minimum onsite financial protection amounts to the following:

**Table 1. Two-Step Graded Approach**

<b>Level</b>	<b>Reactor Site Description</b>	<b>Onsite Requirement</b>
1	Operating or Permanently Ceased Operations and Permanently Defueled	\$1.06 billion
2	Sufficiently Decayed Fuel; $\geq 1,000$ gallons of radioactive waste	\$50 million

In Section 10 of Appendix G, the NRC recommended Option 2, as the minimum financial protection requirements for decommissioned sites since the limits provide the greatest regulatory certainty.

In comparison to the Reactor Site Description associated with Level 2, all SNF at HBPP Unit 3 has been transferred to the ISFSI and there is less than 1,000 gallons of radioactive waste. Therefore, PG&E's exemption request to reduce the minimum onsite insurance coverage for HBPP Unit 3 to \$50 million meets the minimum site conditions described for Level 2, included in option 2 of the recommended rulemaking.

#### Previous Exemptions

Other decommissioning plants have been granted exemptions allowing a reduction to \$50 million in onsite insurance coverage. Specific examples include Oyster Creek Nuclear Generating Station (Reference 7.4), and LaCrosseSolutions (Reference 7.5).

### **3. Justification for Exemption**

10 CFR 50.12(a)(1) states that the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of 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. As discussed below, this exemption request satisfies these provisions of 10 CFR 50.12(a)(1).

#### **3.1 The Exemptions Are Authorized by Law**

The requested exemption is authorized by law and similar exemptions have been granted by the Commission. Other permanently shut down plants that have been granted similar exemptions are discussed above. In addition, the requested exemption is consistent with the guidelines presented by the NRC Staff in the November 2017 Regulatory Basis Document for decommissioning rulemaking



(Reference 7.3). The proposed exemption is not contrary to the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

### 3.2 The Exemptions Will Not Present an Undue Risk to Public Health and Safety

The HBPP Unit 3 reactor has been removed and all SNF and GTCC waste is stored in the onsite ISFSI. In addition, plant structures associated with reactor operations have been removed from the site. This results in a significant reduction in the potential for and severity of onsite property damage. The proposed reduction in the amount of onsite insurance coverage does not impact the probability or consequences of potential accidents at the site. The proposed level of insurance coverage is commensurate with reduced risk at the site based on its decommissioning status and the reduced financial consequences of potential accidents at HBPP Unit 3. Therefore, granting the requested exemption will not present an undue risk to the health and safety of the public.

### 3.3 The Exemptions Are Consistent with the Common Defense and Security

The proposed exemption does not alter the design, function, or operation of any structures or plant equipment that is necessary to maintain the safe and secure status of the plant, and will not adversely affect PG&E's ability to physically secure the site or protect special nuclear material. Therefore, the proposed exemption is consistent with the common defense and security.

## 4. Special Circumstances

10 CFR 50.12(a)(2) states that the Commission will not consider granting an exemption unless special circumstances are present, and identifies in 10 CFR 50.12(a)(2)(i)-(vi) when special circumstances are present. Special circumstances are present as discussed below.

4.1 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 (10 CFR 50.12(a)(2)(ii)).

The underlying purpose of 10 CFR 50.54(w)(1) is to ensure that licensees maintain adequate funding for onsite post-accident recovery, stabilization, and decontamination costs following an accident at an operating nuclear power plant. The requirements of 10 CFR 50.54(w)(1) were developed taking into consideration the risks associated with the operation of an operating nuclear power reactor, including the potential consequences of a release of radioactive material from the reactor. However, the regulation does not take into consideration the

reduced potential for, and consequences of, nuclear accidents at sites undergoing decommissioning.

Special circumstances are present at HBPP Unit 3 because the reactor has been removed and all SNF and GTCC waste is stored in the onsite ISFSI. In addition, the design basis accidents and transients postulated to occur during reactor operation are no longer possible. In particular, the potential for a release of a large radiological source term to the environment from the high pressures and temperatures associated with reactor operation no longer exist. As stated in the HBPP Defueled Safety Analysis Report, Section 7.1, there are no postulated decommissioning accidents with potential radiological impacts to the environment (Reference 7.1).

The requested reduction in the level of onsite insurance coverage to \$50 million would continue to serve the underlying purpose of the rule by requiring a conservative level of financial protection considered commensurate with the current status of the site and the underlying purpose of the rule. In addition, the requested exemption is consistent with the guidelines presented by the NRC staff in the November 2017 Regulatory Basis Document for Decommissioning Rulemaking (Reference 7.3).

## **5. Environmental Consideration**

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: ... (H) Surety, insurance, or indemnity 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 exemptions.

### **5.1 These exemptions do 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 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 exemption does not involve any physical change in the facility or in the procedures governing operation of the plant. 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.

5.2 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.

The exemption does not involve any physical change in the facility or in the procedures governing operation of the plant. 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.

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

The exemption does not involve any physical change in the facility or in the procedures governing operation of the plant. Therefore, the exemption does not involve a significant increase in individual or cumulative public or occupational radiation exposure.

5.4 The exemption does not involve a significant construction impact.

The exemption does not involve any physical change in the facility or the manner in which the plant will be constructed. Therefore, the exemption does not involve a significant construction impact.

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

The exemption does not involve any physical change in the facility or in the procedures governing operation of the plant. Therefore, the exemption does not involve a significant increase in the potential for or consequences from radiological accidents.

5.6 The requirements from which the exemption is sought involves surety, insurance, or indemnity requirements.

This exemption pertains to reducing the onsite insurance coverage requirements required by 10 CFR 50.54(w)(1). Therefore, the request involves the activities described in 10 CFR 51.22(c)(25)(vi)(H).

## **6. Conclusion**

Pursuant to the provisions of 10 CFR 50.12, PG&E is requesting a permanent exemption from 10 CFR 50.54(w)(1) for HBPP Unit 3 to reduce the minimum onsite insurance coverage to \$50 million. Based on the considerations discussed above, the requested 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. In addition, special circumstances are present as set forth in 10 CFR 50.12 (a)(2)(ii).

## **7. References**

- 7.1 PG&E Letter HBL-18-001, Revision 12 to the Defueled Safety Analysis Report, Revision 2 of the License Termination Plan, and Revisions 34, 35, and 36 to the Humboldt Bay Quality Assurance Plan, dated February 23, 2018 (ML18066A137).
- 7.2 NRC Letter, "Humboldt Bay Power Plant, Unit No. 3, Exemption from Property Damage Insurance Requirement (TAC-L21017)," dated August 22, 1989.
- 7.3 NRC Report, "Regulatory Improvements for Power Reactors Transitioning to Decommissioning," RIN Number: 3150-AJ59, NRC Docket ID: NRC-2015-0070, dated November 20, 2017 (ML17215A010).
- 7.4 NRC Letter to Exelon Generation Company, LLC, "Oyster Creek Nuclear Generating Station – Exemption from the Requirements of 10 CFR 50.54(w)(1), Concerning Onsite Property Damage Insurance (EPID L-2018-LLE-0004)," dated December 19, 2018 (ML18228A852).
- 7.5 NRC Issuance of Exemption, LaCrosseSolutions, LLC; Dairyland Power Cooperative, La Crosse Boiling Water Reactor, dated July 24, 2018 (ML18082A370).