



DEPARTMENT OF ENERGY

Notice of Adoption of Nuclear Regulatory Commission National Environmental Policy Act Documentation for the Operation of Diablo Canyon Power Plant and Republication as a Final DOE Environmental Impact Statement for Award of Credits to Pacific Gas and Electric Company under the Civil Nuclear Credit Program

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of adoption of National Environmental Policy Act documentation.

SUMMARY: The Department of Energy (DOE) is adopting the Nuclear Regulatory Commission (NRC) National Environmental Policy Act (NEPA) documentation (including that of the Atomic Energy Commission (AEC), the NRC's predecessor agency), for operation of the Diablo Canyon Power Plant (DCPP) under DCPP's operating licenses from the NRC. DOE determined these documents adequate to satisfy DOE NEPA obligations related to its award of credits to Pacific Gas and Electric Company (PG&E), pursuant to the Civil Nuclear Credit (CNC) Program, for the continued operation of the DCPP under DCPP's current operating licenses issued by the NRC. Because the actions covered by this NRC NEPA documentation and the proposed action are substantially the same, DOE is republishing and adopting those NEPA documents as a final DOE Environmental Impact Statement (EIS).

DATES: DOE will execute a Record of Decision no sooner than 30 days following publication by the Environmental Protection Agency (EPA) of its Notice of Availability of DOE's adoption of the NRC NEPA documents (EPA Notice) in the *Federal Register*.

ADDRESSES: Copies of this Notice of Adoption may be obtained by contacting Mr. Jason Anderson, Document Manager, by mail at U.S. Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, Idaho Falls, Idaho 83415; or by e-mail to cnc_program_mailbox@hq.doe.gov. This Notice of Adoption, as well as other general information concerning the DOE NEPA process, are available for viewing or download at:

<https://www.energy.gov/gdo/cnc-cycle-1-diablo-canyon-conditional-award-nepa-documentation>.

For general information on the CNC Program, visit www.energy.gov/gdo/civil-nuclear-credit-program.

FOR FURTHER INFORMATION CONTACT:

Mr. Theodore Taylor, cnc_program_mailbox@hq.doe.gov, (202) 586-4316.

SUPPLEMENTARY INFORMATION: Part of the DOE mission is to ensure America's security and prosperity by addressing its energy, environmental, and nuclear challenges through transformative science and technology solutions. As described at www.energy.gov/gdo/civil-nuclear-credit-program, the CNC Program was established on November 15, 2021, when President Biden signed the Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58), also known as the Bipartisan Infrastructure Law, into law. Section 40323 of the IIJA (42 U.S.C. 18753) provides \$6 billion to establish a program to award civil nuclear credits. The CNC Program is a strategic investment to help preserve the existing U.S. commercial power reactor fleet and save thousands of high-paying jobs across the country.

Under the CNC Program, owners or operators of U.S. commercial power reactors can apply for certification to bid on credits to support the nuclear reactor's continued operation. An application must demonstrate that the nuclear reactor is projected to close for economic reasons and that closure will lead to a rise in air pollutants and carbon emissions, among other conditions. An owner or operator of a certified nuclear reactor whose bid for credits is selected by DOE is then eligible to receive payments from the Federal government in the amount of the credits awarded to the owner or operator, provided it continues to operate the nuclear reactor for the four-year award period (2023 to 2026) and subject to its satisfaction of other specified payment terms. PG&E submitted its application for certification and its bid for credits under the CNC Program on September 9, 2022. DOE made a conditional award of credits to PG&E on November 21, 2022.

NEPA requires Federal agencies to evaluate the environmental impacts of proposals for major Federal actions with the potential to significantly affect the quality of the human environment. Awarding credits for continued operation of a commercial nuclear power reactor under the CNC Program is subject to NEPA. Therefore, to award credits to DCP, an existing commercial nuclear power plant, DOE conducted a review of the existing NEPA documentation for continued operation of the reactor in accordance with the Council on Environmental Quality (CEQ) and DOE NEPA regulations, 40 CFR 1506.3 and 10 CFR 1021.200(d), respectively. DOE also considered non-NEPA documents, such as available licensing basis documents, the 2021 Safety Analysis Report, Federal and State permits, site reports and documents, and relevant public information to satisfy its obligations under NEPA.

Proposed Action

DOE proposes to award credits to PG&E under the CNC Program for the continued operation of DCP under DCP's current NRC operating licenses. While DCP's current NRC operating licenses are valid until November 2, 2024 (Unit 1) and until August 26, 2025 (Unit 2), they may remain in effect by operation of law beyond those dates in accordance with NRC rules and 5 U.S.C. 558(c). DOE's review and adoption of the NRC NEPA documents covers DOE's proposed action, which occurs during the period that DCP's current NRC operating licenses remain in effect. The issuance or payment of credits awarded to PG&E beyond the period that DCP's current NRC operating licenses remain in effect would be dependent on PG&E's compliance with NRC requirements applicable to license renewal. DOE would consider the need for further NEPA review prior to deciding whether to issue any credits or make any payments during the period of operation under an NRC license renewal.¹

¹ The NRC has granted PG&E a one-time exemption for DCP from 10 CFR 2.109(b) to allow PG&E to submit a license renewal application for DCP less than 5 years prior to expiration of the current operating licenses, but no later than December 31, 2023. U.S. Nuclear Regulatory Commission, *Pacific Gas and Electric Company Diablo Canyon Power Plant, Units 1 and 2 Exemption*, ADAMS Accession No. ML 23026A109 (NRC 2023). As the NRC explained, "[t]he decision to issue PG&E an exemption from 10 CFR 2.109(b) does not constitute approval of the license renewal application PG&E intends to submit by December 31, 2023. Rather, this exemption provides that if PG&E submits an application by December 31, 2023, and the application is sufficient for docketing, the licensee will receive timely renewal protection under 10 CFR 2.109(b) while the NRC evaluates that application."

NEPA Document Review

Because DOE did not participate as a cooperating agency in the preparation of the NRC NEPA documents,² in accordance with 10 CFR 1021.200(d), DOE conducted a review to determine if the NRC documentation “meets the standards for an adequate statement, assessment, or determination” under the CEQ NEPA regulations and an evaluation of whether “the actions covered by the original environmental impact statement and the proposed action are substantially the same.” 40 CFR 1506.3. DOE reviewed the following NRC NEPA documents:

- U.S. Atomic Energy Commission Final Environmental Statement related to the Nuclear Generating Station Diablo Canyon Units 1 & 2 (AEC 1973);
- U.S. Nuclear Regulatory Commission Addendum to the Final Environmental Statement for the Operation of the Diablo Canyon Nuclear Power Plant Units 1 & 2 (NRC 1976);
- U.S. Nuclear Regulatory Commission Pacific Gas and Electric Company Diablo Canyon Nuclear Power Plant, Units 1 and 2 Notice of Issuance of Environmental Assessment and Finding of No Significant Impact (NRC 1993);
- U.S. Nuclear Regulatory Commission Environmental Assessment Related to the Construction and Operation of the Diablo Canyon Independent Spent Fuel Storage Installation (NRC 2003); and
- U.S. Nuclear Regulatory Commission Supplement to the Environmental Assessment and Final Finding of No Significant Impact Related to the Construction and Operation of the Diablo Canyon Independent Spent Fuel Storage Installation (NRC 2007).

DOE’s review of the DCPN NRC NEPA documents was guided by the NRC’s 2013 Generic Environmental Impact Statement (GEIS) (NUREG 1437, Revision 1). The 2013 GEIS examines the possible environmental impacts that could occur as a result of renewing licenses of individual nuclear power plants under 10 CFR part 54. The GEIS, to the extent possible,

² For ease of reference, documents prepared by either the AEC or the NRC are referred to as “NRC documents” or the “NRC NEPA documents,” unless a specific AEC document is identified.

establishes the bounds and significance of these potential impacts. While DOE's proposed action does not cover license renewal of DCPD beyond the current licenses in effect, the analyses in the GEIS encompass all operating light-water nuclear power reactors in the United States and provide a reasonable analytical structure for DOE's review of its proposed action to provide financial support for continued operation of existing NRC licensed light-water nuclear power reactors.

In 1967 and 1968, PG&E submitted license applications for the construction and operation of DCPD to the AEC. In 1973, the AEC issued a final Environmental Statement (ES) related to construction and operation of DCPD. The NRC updated some of the analyses and issued an addendum to the ES in 1976. The NRC documents analyzed the potential environmental impacts associated with construction and operation of DCPD. In 1981, the Atomic Safety and Licensing Board Panel, an independent adjudicatory body of the NRC, authorized the issuance to PG&E of two NRC licenses, DPR-80 and DPR-82, for operation of DCPD. Based on its review of the NRC NEPA documents, and subsequent documents as referenced in the DOE EIS (including available licensing basis documents, Federal and State permits, site reports and documents, and relevant public information), DOE has determined that the documents meet the standards for an adequate statement, assessment, or determination under CEQ NEPA regulations and the actions covered by the NRC NEPA documents are substantially the same as the actions proposed to be undertaken with respect to the award of credits described herein. In this instance, DOE's action is proposed financial support for the continuing operation of DCPD, and NRC has permitting (licensing) authority over the same project. DOE took a hard look at the environmental effects of the planned action, including the analysis in prior NRC NEPA documents and other environmental documents. DOE concluded that the NEPA documentation is adequate for continued operation during the period that DCPD's current operating licenses remain in effect. Therefore, DOE has adopted the NRC NEPA documents as a single DOE EIS (DOE/EIS-0555).

While the NRC NEPA documents themselves are the basis of this adequacy review, it is permissible to use non-NEPA documents, such as available licensing basis documents, Federal and State permits, site reports and documents, and relevant public information in DOE's analysis. Further, as a condition of the Environmental Protection Plan (EPP) which is part of the NRC licenses for operation of DCP, PG&E is required to report "unreviewed environmental questions" which "may result in a significant increase in any adverse environmental impact previously evaluated in the final environmental statement." Implementation of such changes are subject to prior approval by the NRC in the form of a license amendment incorporating the appropriate revision into the EPP. PG&E is required to submit an annual report identifying if any of these events occurred. For example, PG&E's most recent report to the NRC with respect to DCP, dated May 1, 2023, reported that there were no EPP noncompliances nor changes in plant design or operation, tests, or experiments involving an unreviewed environmental question during 2022. These documents were included in DOE's review and are consistent with the NRC NEPA documents.

DOE determined that the project analyzed in the NEPA documents is substantially the same project for which DOE is considering awarding credits as part of the CNC Program, namely the continued operation of DCP under its NRC operating licenses, and that the NEPA documents meet the standards for an adequate statement, assessment, or determination under the CEQ NEPA regulations. Additional details on that review are summarized below.

Potential Environmental Impacts

The existing NEPA documents as well as available public documents were reviewed by DOE to satisfy DOE's obligations under NEPA. The NEPA resource areas reviewed by DOE included land use and visual resources, meteorology and air quality, noise, geologic environment, biological resources, water resources, ecological resources, historic and cultural resources, socioeconomics, human health, environmental justice, waste management, transportation, intentional destructive acts, and cumulative impacts.

The NRC's 1996 GEIS (NUREG 1437) examines the possible environmental impacts that could occur because of renewing licenses of individual nuclear power plants under 10 CFR part 54. The GEIS, to the extent possible, establishes the bounds and significance of these potential impacts. The analyses in the GEIS encompass all operating light-water power plants. As part of the review, DOE considered the resource areas analyzed in the 2013 GEIS and listed above.

DOE's review of the NRC NEPA documents and other available information for DCPD indicates the impact findings in the existing NEPA documentation remains adequate through the current operating licenses and that the impacts of continued DCPD operation would be consistent with the impacts of current and historic operations.

DOE found that there was sufficient information in the documents reviewed by DOE to complete DOE's analysis and to determine that the NEPA documents remain adequate, despite the age of many of these documents. In its review, DOE did not identify significant new circumstances or information relevant to environmental concerns and bearing on the proposed award of credits or the impact of the award of credits and therefore, no supplemental EIS is required. In addition, DCPD complies with Federal, State, and local environmental regulations, requirements, and agreements, and it operates using best management practices. Further, DOE determined that the proposed action is substantially the same as the proposed action analyzed in the existing NEPA documents: both the NRC's issuance of an operating license to DCPD pursuant to the NEPA documents and DOE's award of credits under the CNC Program for DCPD have the purpose and effect of allowing for the continued operation of DCPD. DOE's award of credits under the CNC Program for the period that DCPD's current NRC license remains in effect does not change the existing location, design, construction, size, fuel usage, production of electricity, or environmental impacts of DCPD as evaluated by the NEPA documents and for which the NRC has issued an operating license. In light of the foregoing, DOE finds the NEPA documentation is adequate for continued operation through the period that DCPD's current NRC

operating licenses remain in effect. Therefore, DOE is adopting and republishing the NRC NEPA documents as a single final EIS (DOE/EIS-0555).

Signing Authority

This document of the DOE was signed on July 28, 2023, by Maria D. Robinson, Director, Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on July 28, 2023.

Treena V. Garrett,
Federal Register Liaison Officer,
U.S. Department of Energy.

[FR Doc. 2023-16448 Filed: 8/3/2023 8:45 am; Publication Date: 8/4/2023]