[6450-01-P]

DEPARTMENT OF ENERGY

Record of Decision for the Final Environmental Impact Statement for the Civil Nuclear Credit Program Proposed Award of Credits to Pacific Gas and Electric Company for Diablo Canyon Power Plant

AGENCY: Grid Deployment Office; U.S. Department of Energy.

ACTION: Record of decision.

SUMMARY: The U.S. Department of Energy (DOE) announces its decision to award credits to Pacific Gas and Electric Company (PG&E) under the Civil Nuclear Credit (CNC) Program for the continued operation of Diablo Canyon Power Plant Units 1 and 2 (DCPP) under DCPP's current operating licenses issued by the U.S. Nuclear Regulatory Commission (NRC). This decision is pursuant to the *Final Environmental Impact Statement for the Civil Nuclear Credit Program Proposed Award of Credits to Pacific Gas and Electric Company for Diablo Canyon Power Plant* (DOE/EIS-0555). DCPP is an existing commercial nuclear power plant located in San Luis Obispo County, California. PG&E will be eligible to receive payments from the first award cycle of funding from the CNC Program over a four-year award period (January 2023–December 2026), subject to PG&E's satisfaction of the applicable payment terms and NRC license extension approvals. The action being taken by DOE does not change the operational configuration (*i.e.,* the way PG&E operates the plant) of the facility. The action awards credits to PG&E to help DCPP to continue to operate under the existing NRC approved licenses and programs. Payments of credits are expected to occur annually beginning in 2025 and will be paid retroactively to compensate PG&E for DCPP operations in the prior year(s).

ADDRESSES: For further information on this record of decision (ROD), contact 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 ROD and DOE/EIS-0555, as well as other general

information concerning the DOE National Environmental Policy Act (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. Jason Anderson, Document Manager, U.S. Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, Idaho Falls, Idaho 83415; by e-mail to *cnc_program_mailbox@hq.doe.gov* or by phone at (202) 586-4316. For general information on the DOE NEPA process, contact Brian Costner, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; by email at *askNEPA@hq.doe.gov*; or by facsimile at (202) 586–7031**.**

SUPPLEMENTARY INFORMATION:

Background

DOE's mission ensures 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) (Pub. L. 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 nuclear reactors' 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 (for DCPP, January 2023 to December 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, DOE conducted a review of the existing NEPA documentation for continued operation of the DCPP reactors 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 inform DOE's evaluation of the existing NEPA documents.

NEPA Review

The NRC has principal regulatory authority over the licensing of commercial nuclear power reactors, and DOE conducted a review of the NRC environmental documents and those of their predecessor, the U.S. Atomic Energy Commission (AEC), related to the licensing of Diablo Canyon. DOE determined that the project analyzed in the NRC NEPA documents was substantially the same as the project that would be covered by the DOE CNC Program. DOE determined that continued operation of DCPP Units 1 and 2 as NRC licensed commercial nuclear power reactors would have environmental consequences that have been adequately analyzed in the existing NEPA documentation for the purposes of adoption in accordance with 40 CFR 1506.3. Further, DOE determines that continued operation of DCPP would have beneficial

impacts to air quality when compared against construction and operation of alternative energy generation methods that would be available to replace the electrical energy currently generated by DCPP if the plant were to shut down.

Because DCPP is one of the few operating nuclear plants that has not completed a license renewal process with the NRC, the NEPA documentation available for DCPP includes some documents that are more dated than for other plants expected to apply to the CNC Program. The first NEPA document is from 1973, the *Final Environmental Statement related to the Nuclear Generating Station Diablo Canyon Units 1&2* (1973 ES), and was prepared by the AEC and supplemented by a 1976 *Addendum to the Final Environmental Statement for the Operation of the Diablo Canyon Nuclear Plant Units 1 and 2* (1976 ES Addendum) and a 1993 *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* (1993 EA) prepared by the NRC. Further, in part because the continued operation of DCPP may result in additional accumulation of spent nuclear fuel, DOE also reviewed DCPP's 2003 *Environmental Assessment Related to the Construction and Operation of the Diablo Canyon Independent Spent Fuel Storage Installation* (ISFSI) (2003 ISFSI EA) and 2007 *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* (2007 ISFSI EA Supplement). The 1973 ES, 1976 ES Addendum, 1993 EA, 2003 ISFSI EA, and 2007 ISFSI EA Supplement collectively constitute the Final NEPA Documents for DOE adoption in respect of DCPP. As additional background, in March 2023 the NRC made a categorical exclusion determination which the NRC relied on in its decision to grant an exemption to Diablo Canyon from the NRC's timely renewal requirements so long as it submits its license renewal application by December 31, 2023. The NRC's decision permits DCPP's operating license to continue beyond the expiration dates of November 2, 2024 (Unit 1) and August 26, 2025 (Unit 2) until the NRC makes a final determination on DCPP's license renewal application. On November 7,

2023, PG&E submitted a license renewal application for both DCPP units to the NRC, which is currently undergoing NRC review.

In addition to reviewing the NRC NEPA documents, DOE reviewed various other reports and more recent sources of information to evaluate the adequacy of the NRC NEPA documents, including the following: (1) the *Applicant's Environmental Report – Operation License Renewal Stage* (2009 ER); (2) the *Annual Update to the Diablo Canyon Power Plant License Renewal Application (LRA), Applicant's Environmental Report - Operating License Renewal Stage, Amendment 1* (2014 ER Amendment 1); (3) the *Update to the Diablo Canyon Power Plant License Renewal Application (LRA) Applicant's Environmental Report - Operating License Renewal Stage. Amendment 2* (2015 ER Amendment 2); (4) the *Diablo Canyon Power Plant Units 1 and 2 Final Safety Analysis Report Update* (2021 Safety Analysis Report (SAR)); (5) the *Generic Environmental Impact Statement for License Renewal of Nuclear Plants* (NUREG-1437), Revision 1 (2013 GEIS); and (6) permits and other available documents from the period May 1973 through July 2023.

The NRC has principal regulatory authority over the licensing of commercial nuclear power reactors. DOE conducted a review of the NRC environmental documents related to the licensing of Diablo Canyon, in accordance with 10 CFR 1021.200(d). DOE conducted an independent review of the NRC NEPA documents and related documents for the purpose of determining whether DOE could adopt them pursuant to CEQ regulations at 40 CFR 1506.3. DOE did not participate as a cooperating agency in preparation of the DCPP NEPA documents and subsequently adopted them as a DOE environmental impact statement (EIS) (DOE/EIS–0555). Formal announcements of adoption were published by the U.S. Environmental Protection Agency (EPA) and DOE in the *Federal Register* at 88 FR 51798, 51812 (Aug. 4, 2023). The Notice of Adoption provided that DOE would execute a ROD no sooner than 30 days after publication of the Notice of Availability.

DOE's review and adoption of the NRC NEPA documents covers only the period that DCPP's current operating licenses remain in effect. That is to say, so long as the DCPP operating licenses continue in effect by operation of law, DOE will continue to pay credits during the four-year award period. PG&E submitted its application for DCPP operating license renewal on November 7, 2023, which is currently undergoing NRC review. If the NRC denies renewal of the DCPP operating licenses, DOE will stop payment of credits. If the NRC grants renewal of the DCPP operating licenses during the January 2023–December 2026 award period, DOE will stop payment of credits and initiate a process to satisfy DOE's NEPA obligations with respect to continuing payments.

Alternatives Considered

The present DOE decision is whether to approve the proposed action described in the cover memorandum to DOE/EIS-0555: an award of credits to PG&E under the CNC Program to support continued operation of DCPP as constructed, licensed, and authorized under current NRC operating licenses DPR-80 and DPR-82. Accordingly, the alternatives considered by DOE include (1) the proposed action of awarding CNC Program credits to PG&E, which is substantially the same as the primary proposed DCPP plant design analyzed in the 1973 Environmental Statement; and (2) the alternative of not awarding CNC Program credits to PG&E, which is substantially the same as the Alternative Sources of power generation discussed in the 1973 Environmental Statement. Unlike NRC/AEC, DOE is not deciding whether to authorize construction of DCPP or whether to license its operations. However, DOE's proposed action is *substantially* the same as the prior Federal actions by NRC/AEC that led to the construction, licensure and present operating configuration of DCPP. The proposed credit award would provide financial support for the continued operation of DCPP under its existing NRC licenses during a limited four-year award period (2023-2026).

The alternative of not awarding credits to PG&E could result in PG&E discontinuing operation of DCPP Unit 1 upon license expiration on November 2, 2024, and Unit 2 upon license

expiration on August 26, 2025. Discontinued operations would result in a loss of 2,200 electric megawatts of power for the DCPP service area, that would likely need to be replaced by other forms of energy generation that would result in greater amounts of air pollution.

Potential Environmental Impacts

DOE finds that despite the age of some of the NRC/AEC NEPA documents, there is sufficient available information to complete DOE's analysis of the proposed action. In DOE/EIS-0555, DOE considered changes to the affected environment and environmental impacts of DCPP operation since the publication of the 1973 ES, through available licensing basis documents, Federal and State permits, site reports and documents, and relevant public information. Changes to the affected environment include the following resource topics:

Meteorology and Air Quality: The region surrounding the DCPP currently attains all national ambient air quality standards but does not attain the California air quality standards for ozone and respirable particulates (PM10). DCPP operates under several San Luis Obispo County Air Pollution Control District Permits to Operate and submits Annual Air Emissions Reports that identify annual fuel usages for permitted sources. As air emissions from DCPP are regulated by site-specific permits in order to comply with the State's air quality standards, air quality impacts from continued operation are anticipated to be small.

In addition, continued operation of DCPP would result in fewer air pollutants emissions (including greenhouse gases) compared to those that would occur with potential replacement power generation sources. As described in the cover memorandum for the DOE EIS, DOE reviewed three independent studies (DOE/EIS-0555 pg. 6) examining the potential impact of DCPP's retirement. Each study indicates that while deployment of renewable energy generation would continue, partially driven by existing State laws and policies, natural gas generation and the associated carbon dioxide and nitrous oxide emissions would increase if DCPP were to cease operations. All three studies project that a substantial proportion of DCPP's lost generation between 2024 and 2030 would be covered largely by increased utilization of gas-fired units

rather than newly constructed renewable electric sources. DOE found nothing to refute that emissions would increase during the credit award period were DCPP to cease operations.

A review of the permitted emission sources at DCPP, the diesel-fired auxiliary steam boiler and seven emergency diesel-fired generators, determined that the combined annual emissions of all current sources would be much less than the major source threshold of 100 tons per year of an air pollutant. Therefore, emissions from the continued operation of DCPP would be substantially less than the emissions estimated for increased utilization of natural gas-fired power generation.

Finally, if an alternative generating technology were to be constructed to replace generation as a result of DCPP ceasing operations, the construction process would be an additional source of air pollutant and greenhouse gas emissions from construction equipment and transportation vehicles.

Overall, the adverse environmental impacts to air quality of continued operation of DCPP would be expected to be smaller than such impacts of construction and operation of an equivalent gas-powered electrical power generation facility or facilities.

Geologic Environment: Section 2.4.2 of the 1973 ES discusses seismology of the plant and that DCPP has been designed to safely withstand the earthquakes as discussed in the staff's Safety Evaluation Report (SER). In Chapter 5 of the 2009 ER, Assessment of New and Significant Information, PG&E described its notification to the NRC that preliminary results from ongoing studies by PG&E and the U.S. Geological Survey (USGS) indicated the presence of a new fault, which has since been referred to as the "Shoreline Fault." The NRC staff subsequently undertook several independent reviews of possible implications of the potential Shoreline Fault to DCPP and concluded that the Shoreline Fault will not likely cause ground motions that exceed those for which DCPP has already been analyzed (DOE/EIS-0555, pg. 7).

In 2013 the NRC established an Ad Hoc Review Panel in response to a Differing Public Opinion (DPO) raised by an NRC employee regarding the NRC's consideration of the new fault

information near DCPP. The Ad Hoc Review Panel conducted a thorough review of the new fault information and concluded that the "Los Osos, San Luis Bay, and the Shoreline faults do not exceed the level of ground motion already considered in the design and licensing of DCPP." (DOE/EIS-0555, pg. 7).

The issue of the Shoreline Fault was again raised in 2017 through public petition. The NRC Director of Nuclear Reactor Regulation reviewed the prior information, including that of the Ad Hoc Review Panel, and concluded that, "the NRC Staff determines that DCPP is safe to continue operating and is able to safely shut down following an earthquake caused by the Shoreline, San Luis Bay, or Los Osos faults" and that it "did not find that the continued operation of DCPP would adversely affect public health and safety." (DOE/EIS-0555, pg. 7).

In 2012, the NRC issued a letter to all nuclear power plant licensees requiring that they reevaluate the seismic and flooding hazard at their sites using present-day NRC requirements and guidance, which PG&E did. The NRC reviewed the information and in 2020, issued a letter to PG&E finding no further regulatory actions were required related to the seismic hazard reevaluation activities (DOE/EIS-0555, pgs. 7-8).

DOE determined that the analysis of seismological effects, soil effects, and other aspects of the geologic environment including the Shoreline Fault which the NRC found was "already considered in the design and licensing of DCPP," remain adequate for adoption through the current operating licenses.

Water Resources: DCPP utilizes a desalination system for potable water and a once-through cooling water system using Pacific Ocean water. DOE reviewed the impacts of the resulting discharge into the ocean. Section 2.5 and Table 5.13 of the 1973 ES shows the minimum ambient ocean water temperature recorded at Diablo Cove between January 1970 and December 1971 was 45°F and the maximum ambient ocean water temperature was 63.5°F. The 1976 Addendum described the coordinated jurisdiction over water effluents between the NRC and the State of California, noting "the exclusive jurisdiction over plant effluent discharges and

water quality matters resides with the State of California and [U.S.] EPA" and thus while NRC "lacks jurisdiction to regulate liquid effluent discharged into Diablo Cove or to alter the design of the intake or discharge structures, the NRC has a mandated responsibility to assess the environmental effects of discharges proposed by the applicant or permitted by those agencies that have jurisdiction."

Water discharges from the DCPP once-through cooling water system continue to be regulated and monitored in accordance with a Central Coast Regional Water Quality Control Board (CCRWQCB) National Pollutant Discharge Elimination System (NPDES) permit, which is in administrative extension *(i.e.*, pending renewal). Information on routine and effluent monitoring and the NPDES Receiving Water Monitoring Program are reported annually to the NRC in the Nonradiological Environmental Operating Report required under DCPP's Environmental Protection Plan (EPP) as part of its NRC operating license. Section 2 of PG&E's NPDES Receiving Water Monitoring Program 2020 Annual Report recorded the intertidal monthly mean ambient seawater temperatures at the Diablo Canyon North Control station, outside the influence of the thermal discharge, as ranging from a low of 53.8°F to a high of 59°F, within the range measured in the 1973 ES for ambient ocean water temperature. Intertidal temperatures at measurement stations regularly contacted by the discharge plume averaged 4.9°F warmer than the temperature in South Diablo Cove and 6.7°F warmer than the temperature in North Diablo Cove. Subtidal monthly mean ambient seawater temperatures at the Diablo Canyon North Control station ranged from a low of 53.4°F to a high of 58.8°F, also within the range measured in the 1973 ES for ambient ocean water temperature. Subtidal temperatures at measurement stations regularly contacted by the discharge plume averaged 3.8°F warmer than the temperature in South Diablo Cove and 6.8°F warmer than the temperature in North Diablo Cove. Please reference the Ecological Resources section for discussion of the effects of thermal discharge.

The DOE concluded that continued operation of the DCPP would not result in any new or substantially different environmental impacts related to water resources that have not been assessed by previous NEPA documents. In addition, in accordance with DCPP's NRC operating license, radionuclide monitoring in groundwater is routinely conducted and reported in the publicly available Diablo Canyon Annual Radiological Environmental Operating Reports. In particular the latest reports from 2022, 2021, 2020 have supported the original NEPA analyses by finding that "the ambient direct radiation levels in DCPP offsite environs did not change and were within the pre-operational background range." (DOE/EIS-0555, pg. 15). Therefore, DOE determined that the impact findings in the existing NEPA documentation remain adequate for DOE's adoption through the current operating licenses.

Ecological Resources: DOE reviewed the impacts to the ecological resources due to the operation of DCPP as analyzed in the existing NEPA documents. The 1973 ES identified that operation of the plant was expected to result in a number of impacts, including that thermal discharge from the plant "will cause an ecological shift in benthic organisms and fish that will result in an increase in the number of warmwater-tolerant forms. The higher temperatures will also increase the feeding activity of the giant sea urchin, which competes with the abalone for the existing food supply (mainly kelp); this may lead to a decline in the abalone population unless measures are taken to control the urchin. A total of 110,000 abalone may be lost as a result of the station operation."

The NRC Staff subsequently issued the 1976 ES Addendum which considered impacts that differed in extent and/or intensity from those described in the 1973 ES, noting that "extensive changes have occurred in the baseline conditions on which the [1973 ES] impacts were based. . . brought about mainly by the southward migration of the sea otter, increased commercial harvesting in the Diablo Canyon region, red tides, and to a lesser extent toxicity problems associated with the plant's cooling water system." The 1976 ES Addendum summary identified that "major changes have been the decline of abalone and sea urchin populations."

Section 5.2.1 of the 1976 ES Addendum found that releases of copper in the concentrations that occurred during the startup of the cooling water system for DCPP Unit 1 were not anticipated, and that the State of California concluded that the release of copper during DCPP startup operations in the 1970s contributed to "significant abalone mortality in Diablo Cove." After the copper discharge, PG&E took measures to eliminate the release of copper from the main condensers, and NRC Staff concluded that the very low concentration of copper should have no detrimental effect on the biota of Diablo Cove. With respect to the effects of thermal temperature on the benthic environment, section 5.3.2 noted that the population of red abalone had declined 95 percent at subtidal stations, and that Diablo Cove "will not afford a viable habitat in those areas where the thermal plume remains in constant contact with the bottom."

The 2003 ISFSI EA notes that, "[t]he marine ecology in the area of Diablo Cove has been studied since 1976 under the Thermal Effects Monitoring Program (TEMP). This program includes periodic monitoring of intertidal and subtidal algae, invertebrates and fish and several physical parameters. Two marine species that frequent near-shore areas around the DCPP and are listed as threatened by the Federal Endangered Species Act are the southern sea otter and green sea turtle. However, the proposed ISFSI activities will not result in discharges to the marine environment, and thus, there will be no impact on these species."

In 2005, the NRC prepared a Biological Assessment (BA) that addressed the effects of the continued operation of DCPP on threatened and endangered marine species in accordance with section 7 of the Endangered Species Act under the jurisdiction of the National Marine Fisheries Service. Based on this BA, the NRC determined that continued operation of DCPP may adversely affect the green sea turtle, loggerhead sea turtle, leatherback sea turtle, and olive ridley sea turtle. The NRC also determined that continued operation of DCPP would have no effect on the southern California or the southcentral coast stocks of steelhead, the Guadalupe fur seal, Steller sea lion, the blue whale, fin whale, Sei whale, sperm whale, or the humpback whale. No critical habitat for any of these species would be affected by the continued operation of

DCPP nor is any critical habitat present in the vicinity of DCPP. Although the NRC has determined that individuals of the four species of sea turtles may be adversely affected by the continued operation of DCPP, the NRC also determined that DCPP does not contribute to the overall mortality of these species nor jeopardize the continued existence of any of these species.

In 2006, the National Oceanic Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) issued a Biological Opinion and Incidental Take Statement for Continued Operations for green sea turtles, leatherback sea turtles, loggerhead sea turtles, and olive ridley sea turtles. NMFS found hat that the continued operation of DCPP "is not likely to jeopardize the continued existence of endangered or threatened green, leatherback, loggerhead, or olive ridley sea turtles." The incidental take statement noted that the "consultation will cover the plant until the expiration of its existing operating license in 2026" and that "that the levels of anticipated take are not likely to result in jeopardy to green, leatherback, loggerhead, or olive ridley sea turtles." As part of the incidental take statement, DCPP reports all sea turtle entrainments to NMFS via the NMFS Stranding Reports.

In 2021, PG&E and the Central Coast Regional Water Quality Control Board (CCRWQCB) reached a settlement agreement to resolve alleged thermal discharge permit violations from 2003. A public review and comment period was completed in early 2021 for the settlement agreement, which had been negotiated between PG&E and CCRWQCB during 2020. The settlement agreement addressed impacts on receiving waters from past and ongoing power plant cooling water discharges. The funds generated by the settlement are to be used for regional water quality projects. In addition to this settlement, PG&E has been making annual payments since 2015 to mitigate the potential impacts of its discharges, in accordance with the California State Water Board's Once-through Cooling Water Policy Requirements. Regardless of the thermal discharge impacts settlement resolution, the plant NPDES permit remains under administrative extension.

Environmental monitoring continues to be conducted at DCPP under the Receiving Water Monitoring Program and includes monitoring tasks such as temperature monitoring, State Mussel Watch activities, and intertidal and subtidal surveys.

PG&E is required to comply with Federal, State, and local environmental regulations, agreements, and mechanisms (*e.g.*, best management practices) that are in place to protect ecological resources.

Historic and Cultural Resources: DOE's proposed action would not add to or alter the undertaking that would be subject to the National Historic Preservation Act (NHPA) section 106 review process, as DOE's proposed action does not change the operational configuration of any facility, and it would not add to or alter the undertaking (see 36 CFR 800.16(y)) that would be subject to the section 106 review process.

Accordingly, DOE determined that the impact findings in the existing NEPA documentation remain adequate through the current operating licenses and DOE's section 106 compliance requirements for the proposed credit allocation for the Project have been met.

Cumulative Impacts: Cumulative impacts were not evaluated in the 1973 ES and the 1976 ES. Addendum but were evaluated in the 2003 ISFSI EA and 2014 ER Amendment 1. The 2003 ISFSI EA contains a partial assessment of cumulative impacts, stating: "The impact of the proposed Diablo Canyon ISFSI, when combined with previously evaluated effects from the Diablo Canyon Power Plant, is not anticipated to result in any significant cumulative impact at the site. The offsite radiation exposure limits for an ISFSI specified in 10 CFR 72.104(a) explicitly include any contribution to offsite dose from other uranium fuel cycle facilities in the region." Therefore, the offsite dose contribution from the DCPP has been included in the evaluation of radiological impacts from the proposed Diablo Canyon ISFSI. In addition, the 2014 ER Amendment 1 evaluated cumulative impacts for all resources areas except Noise, Environmental Justice, Waste Management, and Global Climate Change. For the evaluated resources areas, the ER Amendment 1 found impacts to be small.

With respect to overall cumulative impacts, DCPP's continued operation is governed by Federal and State permits, licenses and plans which ensure that any impact from DCPP's continued operation are minimized. This includes the Environmental Protection Plan (EPP) which is part of the NRC licenses for operation of DCPP. 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's compliance with NPDES permit conditions would ensure no changes in the temperature differential of DCPP's existing thermal discharge. Further, PG&E's conformity with requirements to avoid incidental intake of protected species helps assure impacts to the environment are mitigated.

Therefore, DOE has determined the NEPA documentation and other supporting documents adequately address cumulative impacts for continued operation through the period DCPP's current NRC licenses remain in effect.

DOE also considered whether license renewal is a reasonably foreseeable future action. PG&E applied for a license renewal from NRC on November 7, 2023, which is currently undergoing NRC review. While the license renewal application is for a 20-year life extension per NRC regulations, in Senate Bill 846 (SB846) the State of California limited DCPP's life extension to just five years (no later than October 31, 2029 for Unit 1 and no later than October 31, 2030, for Unit 2). DOE cannot at this time reasonably ascertain the scope or terms of any license that NRC might grant to PG&E in the future. Due to this uncertainty, DOE cannot meaningfully analyze the potential impacts of any license renewal without undue speculation. Further, if and when NRC acts on PG&E's application, 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.

In summary, DOE's review of the NRC NEPA documents and other available information for DCPP, indicates that the impacts of continued DCPP operation for the duration of the current licenses would be consistent with the impacts of current and historic operations as described in DOE/EIS-0555.

In addition, DCPP complies with Federal, State, and local environmental regulations, requirements, and agreements, and operates using best management practices. Based upon DCPP's ongoing compliance requirements, and that an award under the CNC Program does not change the existing operating configuration of DCPP facilities or result in significant new circumstances or information relevant to environmental concerns, therefore a Supplemental EIS does not need to be prepared.

Environmentally Preferable Alternative

The Proposed Action, providing credits for continued operation of DCPP, would be the Environmentally Preferable Alternative. This alternative offers environmental benefits consistent with the statutory objectives of the IIJA, which include consideration of air pollutant emissions including greenhouse gases. Compared to natural gas-fired sources producing the same amount of base-load power, annual GHG emission rates from nuclear power plants (including the fuel cycle processes) are considerably less.

Comments on Adoption of the NRC NEPA Documents

DOE received two letters from the Alliance for Nuclear Responsibility (A4NR) during the 30-day waiting period for DOE/EIS-0555. No other comments were received. DOE has considered all comments submitted, including any alternatives, information, analyses, and objections included in or attached to the comment letters. A summary of the comments and DOE's responses are as follows:

Comment 1: None of the NRC NEPA documents adopted by DOE in DOE/EIS-0555 evaluates licensed operation of the Diablo Canyon Power Plant past September 2021 for Unit 1, and April 2025 for Unit 2. Therefore, DOE's proposed action is not substantially the same as the

actions evaluated by the NRC NEPA documents and environmental impacts have not been evaluated beyond those dates.

Comment 1 DOE Response: DCPP's current NRC operating licenses are valid until November 2, 2024 (Unit 1) and August 26, 2025 (Unit 2), and the operating licenses may remain in effect by operation of law beyond those dates in accordance with NRC rules and 5 U.S.C. 558(c). The 1993 EA analyzes the license extension for "40 years after the date of the issuance of the 'low-power' operating licenses" or to extend the expiry on DCPP Unit 1 from April 23, 2008 to September 22, 2021, and for Unit 2 from December 9, 2010 to April 26, 2025. In 1999, the NRC amended its policy to allow reactor licensees to recapture time spent in low-power testing or shutdown time. In 2005, PG&E took advantage of this policy change and filed a License Amendment Request (LAR) to extend the Diablo Canyon licenses to 40 years from the date of issuance of the full-power operating license (FPOL). In its LAR, PG&E stated that, "[t]he environmental affects [sic] associated with the proposed license amendments are enveloped by the original and recapture environmental reviews . . . since these reviews assumed 40 years of full-power operation. The impacts associated with the additional periods of operation have thus been previously addressed." In October 2005, the NRC published a notice of the proposed amendments to revise the license expiration dates in the *Federal Register*, and the proposed finding that the amendments involve no significant hazards consideration (70 FR 59087). In July 2006, NRC granted the LAR and amended the license dates to November 2, 2024 for Unit 1 and August 26, 2025 for Unit 2, explaining, with respect to environmental considerations:

> The amendments change a requirement with respect to the installation or use of a facility component located within the restricted area as defined in 10 CFR part 20. The NRC staff has determined that the amendments involve no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendments involve no significant hazards consideration and there has been no public comment on such finding on October 11, 2005 (70 FR 59087). Accordingly, the amendments meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR

51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendments.

While the NRC's intervening decision to permit plants to recapture low-power testing time resulted in an operating license extension of approximately 37 months for Unit 1 and 4 months for Unit 2, the environmental impacts of this change were encompassed in the original NRC NEPA documents, which assumed environmental impacts from a 40-year period of full-power operation. Thus, this intervening change in NRC policy did not result in significant new circumstances or information relevant to environmental concerns. Indeed, the 1973 ES reviewed 40 years of full power operation, but as NRC noted in granting the LAR, the revised expiration dates equate to 35.2 effective full power years (EFPY) of power operations for Unit 1 and 35.8 EFPY for Unit 2.[1] DOE's review and adoption of the NRC NEPA documents cover its proposed action, which is providing credits for continued operation of DCPP within the period that DCPP's current NRC operating licenses remain in effect.

Comment 2: DOE's proposed action's impact on the environment should be evaluated through 2045 as it is an enabling factor for PG&E's pending application for a 20-year renewal of the DCPP operating licenses.

Comment 2 DOE Response: The proposed action awards credits to PG&E to help allow DCPP to continue to operate under the existing NRC approved licenses. Relicensing of DCPP operating licenses would require the NRC to complete a NEPA evaluation. If the NRC completes a NEPA evaluation and decides to renew the operating licenses of DCPP prior to the end of the four-year award period, DOE would consider the NRC's NEPA evaluation prior to deciding whether to continue to issue credits.

Comment 3: A DCPP license renewal may not occur until after the DOE four-year award period has ended. PG&E has indicated that a reasonable timeline for an accelerated license renewal process would be 4 – 5 years; that its prior effort was on a trajectory to finish in about

[1] NRC, Diablo Canyon, Units 1 and 2 – Issuance of License Amendments 188 & 190, July 17, 2006 (ADAMS Accession No. ML061660220).

seven years; and that it has taken as long as 11 years for the NRC license renewal process to be completed. DOE's EIS would need to consider environmental effects, including cumulative effects, over a substantially longer period of time than the dates cited in the NRC NEPA documents because operation of the Diablo Canyon Power Plant past September 2021 for Unit 1, and April 2025 for Unit 2 is reasonably foreseeable.

Comment 3 DOE Response: As explained in the Comment 1 DOE response, DCPP's current NRC operating licenses are valid until November 2, 2024 (Unit 1) and August 26, 2025 (Unit 2). If PG&E continues to operate the reactors beyond their existing expiration dates during the NRC's review of a renewal application, the NRC's existing NEPA evaluations that support operation of DCPP would remain adequate, as stated by the NRC in the Federal Response brief to the United States Court of Appeals for the Ninth Circuit Case No. 23-852:

> The NRC will prepare an environmental impact statement before making any decision to renew PG&E's licenses for a new term, which the Exemption Decision does not do. And in the event PG&E is able to temporarily continue operating the reactors past their current expiration dates while in timely renewal, permitting such operation to occur under the terms of the existing licenses would not be a new 'major Federal action significantly affecting the quality of the human environment.' The possibility of such continued operation inheres in every license granted by the NRC, by nature of the Administrative Procedures Act and its incorporation into the Atomic Energy Act.

Comment 4: Because of the significant and material differences in the proposed action(s) evaluated in the NRC NEPA documents from the DOE proposed action, DOE is restricted by 40 CFR 1506.3(b)(1) to treating the NRC NEPA documents as a draft EIS rather than a final EIS. DOE is required by 10 CFR 1021.313 to conduct public review of a draft EIS.

Comment 4 DOE Response: CEQ regulations authorize the adoption of an EIS or EA prepared by another Federal agency, "provided that the statement, assessment, portion thereof, or determination meets the standards for an adequate statement, assessment, or determination . . . ." 40 CFR 1506.3(a). If the actions covered by an existing EIS and the proposed action are "substantially the same," the adopting agency "shall" republish it as a final EIS. 40 CFR 1506.3(b)(1). As stated in DOE/EIS-0555, DOE's award of credits to PG&E would not change

existing NRC licenses or the present operational configuration of DCPP. DOE's credit award analyzed under DOE/EIS-0555 would provide financial support for continued DCPP operations under its existing NRC licenses. Although CEQ regulations do not define the phrase "substantially the same," CEQ discussed the phrase in the preamble to its Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act: "when one agency's action may be a funding decision for a proposed project, and another agency's action is to consider a permit for the same project." 85 FR 43304 (Jul. 7, 2020). For purposes of 40 CFR 1506.3(b)(1), DOE's credit award action is "substantially the same" as the prior Federal actions that authorized the construction, licensure, and continued operations of DCPP under the existing license. Therefore, in accordance with 40 CFR 1506.3(b)(1), DOE did not republish the adopted NEPA documents as a draft EIS but instead republished them as a final EIS consistent with 40 CFR 1506.10.

Comment 5: The statement in DOE/EIS-0555 that "A DOE award under the CNC Program would not change the operating configuration or environmental impact of the DCPP facilities" overlooks the material changes in PG&E financial incentives under [California Senate Bill (SB)] 846 that will take effect on November 3, 2024 for Unit 1 and August 27, 2025 for Unit 2. A DOE award is the necessary prerequisite for this fundamental alteration of Diablo Canyon Power Plant's rate recovery paradigm, and the environmental impacts stemming from reasonably foreseeable changes in operating practices (*e.g.,* a greater frequency of unplanned outages and reactor trips) should be addressed in DOE's EIS.

Comment 5 DOE Response: The commenter's basis for asserting that there will be "reasonably foreseeable changes in operating practices (*e.g*., a greater frequency of unplanned outages and reactor trips)" at DCPP is unclear. The commenter appears to assert that certain provisions of SB 846 alter "financial incentives" related to DCPP operations and will therefore cause PG&E to change the way it operates DCPP in a manner that will cause additional outages and reactor trips. DOE finds this assertion to be speculative. There have been no changes

proposed by PG&E to the operational configuration of DCPP. As stated in DOE/EIS-0555, the NRC granted PG&E a one-time exemption for DCPP from 10 CFR 2.109(b) to allow PG&E to submit a license renewal application for DCPP less than 5 years prior to expiration of the current operating licenses, but no later than December 31, 2023. As the NRC explained in the PG&E DCPP exemption decision, the NRC has determined that the issuance of the requested exemption meets the provisions of the categorical exclusion in 10 CFR 51.22(c)(25). Under 10 CFR 51.22(c)(25), the granting of an exemption from the requirements of any regulation of chapter 10 qualifies for a categorical exclusion 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 involves one of several matters, including scheduling requirements (10 CFR 51.22(c)(25)(iv)(G)). The NRC further stated that the exempted regulation is not associated with construction, and the exemption does not propose any changes to the site, alter the site, or change the operation of the site. Therefore, NRC concluded that the requirements of 10 CFR 51.22(c)(25)(iv) were met and grant of the requested exemption would have no significant impact. Where neither NRC nor PG&E has expressed any expectation that operating practices at DCPP would meaningfully change during the four-year award period, DOE declines to find that enactment of SB 846 will cause a "reasonably foreseeable" change in PG&E's operating practices. Please reference DOE's response to Comment 10 for further discussion.

Comment 6: DOE did not conduct adequate public involvement before publishing DOE/EIS-0555. There was no notice of intent published, as required by 40 CFR 1501.9(d), and no public scoping process. There was no draft EIS published requesting public comments as

required by 40 CFR 1506.3(b)(1). A4NR urges DOE to utilize a public scoping process to address them.

Comment 6 DOE Response: DOE published DOE/EIS-0555 in accordance with the adoption requirements in CEQ's NEPA regulations, 40 CFR 1506.3. DOE found that the NRC documents adopted by DOE/EIS-0555 meet the standards for adequacy under NEPA and CEQ regulations, and the actions covered by them are substantially the same as DOE's proposed action within the meaning of 40 CFR 1506.3(b)(1). In such circumstances, 40 CFR 1506.3(b)(1) instructs DOE to adopt the NRC documents and republish them as a final EIS (DOE/EIS-0555) and does not require a new public scoping process or a new draft EIS or formal public comment period.

Comment 7: DOE/EIS-0555 is devoid of any discussion of alternatives to the proposed DOE action of awarding the Credits, including the no action alternative, despite the requirement of 42 U.S.C.A. section 4332(C)(iii). This void reinforces the divergence between the DOE proposed action and the NRC proposed action(s) evaluated in the NRC NEPA documents in 1973, 1976, 1993, 2003, and 2007. With regard to the DOE proposed action, the no action alternative has the benefit of retaining any unissued credits within the DOE CNC program for use by other certified reactors with potentially fewer adverse environmental effects. DOE is required by 10 CFR 1021.210(d) to consider the alternatives analyzed in DOE/EIS-0555 before rendering a decision on the proposed action, and to confine its decision to one within the range of alternatives analyzed in DOE/EIS-0555.

Comment 7 DOE Response: A description of the alternatives considered is included in this ROD. The commenter suggests DOE/EIS-0555 should have identified as a benefit the fact that declining to award credits would retain unissued credits in the CNC Program such that they could be awarded in the future to other nuclear reactors that might have fewer adverse environmental effects. DOE has considered both the costs and benefits of declining to make the proposed credit award and retaining unused credits within the CNC Program. As explained in

DOE's Amended Guidance for Award Cycle 1 of the CNC Program, "the first award cycle of the CNC Program is directed toward Nuclear Reactors most at risk of imminent closure" such that the operator can sufficiently demonstrate that it intends to "permanently cease operations . . . before September 30, 2026" and that "Air Pollutants would increase if the Nuclear Reactor were to cease operations and be replaced with other types of power generation."[2] Noting that 12 commercial nuclear reactors had already shut down since 2013, DOE explained that prioritizing a credit award to reactors at risk of imminent closure in Cycle 1 would address near-term risk of further reactor shutdowns "while retaining Credits for future award cycles to assist as many additional Nuclear Reactors as possible that are projected to cease operation due to economic factors in a future period." DCPP was the only applicant in Award Cycle 1 that met the eligibility criteria.

Comment 8: DOE/EIS-0555 states that no refurbishment of Diablo Canyon Power Plant is planned, relying on a PG&E 2009 Environmental Report (and its 2014 update) attached as an appendix to PG&E's previously withdrawn license renewal application. DOE/EIS-0555's assertion appears unfounded in light of the emphasis in SB 846's urgency clause on "ensuring electrical reliability in the California electrical system". SB 846 requires that the $1.4 billion General Fund loan be conditioned on the operator conducting an updated seismic assessment and commissioning an independent study "to catalog and evaluate any deferred maintenance at the Diablo Canyon powerplant and to provide recommendations as to any risk posed by the deferred maintenance, potential remedies, and cost estimates of those remedies, and a timeline for undertaking those remedies." DOE/EIS-0555's dismissal of refurbishment prior to completion of these statutorily-mandated reviews is premature.

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[2] U.S. Dep't of Energy Guidance for the Civil Nuclear Credit Program, pg. 11 (June 30, 2022), *https://www.energy.gov/sites/default/files/2022-06/US%20DOE%20CNC%20Guidance-Revision%201-June%202022.pdf.*

Comment 8 DOE Response: There has been no proposed refurbishment of DCPP ripe for NEPA analysis. See the Comment 5 DOE Response for NRC's decision on the exemption request.

Comment 9: As DOE's proposed action will have impacts on ecological resources. DOE should engage in formal consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service pursuant to 50 CFR 402.13 and 50 CFR 600.920.

Comment 9 DOE Response: As stated in section 7.6 of DOE/EIS-0555, in 2005, the NRC prepared a Biological Assessment that addressed the effects of the continued operation of DCPP on threatened and endangered marine species in accordance with section 7 of the Endangered Species Act (ESA) under the jurisdiction of the National Marine Fisheries Service. PG&E is required to comply with Federal, State, and local environmental regulations, agreements, and mechanisms (*e.g.*, best management practices) that are in place to protect ecological resources. A DOE award under the CNC Program would not change the operating configuration or environmental impact of the DCPP facilities. As such, DOE concludes that consultation under the ESA is not required for the proposed action to award credits for continued operation of DCPP under the current licenses.

Comment 10: A two-page excerpt from a fact-finding report approved by the Diablo Canyon Independent Safety Committee at its September 13, 2023, meeting identifies a contemplated ocean dredging project for accumulated sediment in the Diablo Canyon Intake Cove necessitated by potential extended operation of the power plant. The area of concern was originally designed to have an average (base) depth of 36 to 38 feet. Over nearly 40 years of operations, about 16 to 20 feet of sand have accumulated in that area, significantly reducing the depth and increasing the velocity of seawater being drawn into the intake bays. The higher amount of sand and increased velocity of seawater makes it more difficult for divers to keep the intake racks and bays clear of debris. These conditions also make it more likely for kelp to be drawn into the intake and foul the racks or condensers. Kelp ingestion has the potential to cause

the circulating water system to trip, which stops cooling of the steam turbine condensers and can place significant stress on plan systems, and possibly a turbine/reactor trip, due to inability to dump steam to the condensers. Concern about the potential to have the circulating water system trip due to kelp ingestion is the reason that the plant will reduce power during some winter storms. The attached document is inadequately evaluated by DOE/EIS-0555.

Comment 10 DOE Response: DOE notes that approval of the referenced fact-finding report by the Diablo Canyon Independent Safety Committee occurred after DOE had noticed the adoption of DOE/EIS-0555 in the *Federal Register*, on August 4, 2023.

On October 3, 2023, the U.S. Army Corps of Engineers (Corps) published a public notice of an application by PG&E (SPL-2023-00468-LM) for a Clean Water Act section 404 permit authorizing dredging of accumulated material at the intake structure located at the north end of the intake cove of DCPP, and placement of dredge material at the Corps Nearshore Placement Area. The notice stated that "[t]he depth of the center portions of the Intake Cove varies from -16 FT mean lower low water (MLLW) in the back (eastern) part of the cove to -33 FT MLLW in front of the intake structure." Although 16-20 feet of sediment have accumulated in certain parts of the Intake Cove away from the intake structure, other areas of the Intake Cove remain near the target average base depth. Based upon the Corps' preliminary review of relevant factors, including water quality, coastal zone management, essential fish habitat, cultural resources, and endangered species, the Corps made a preliminary determination that "an environmental impact statement is not required for the proposed work."

DOE does not have primary jurisdiction or control over PG&E's proposed dredging activity. At this time, whether the Corps will grant the requested permit and what conditions (e.g., required avoidance or mitigation measures) the Corps may attach to any permit granted, are unclear. As indicated in the Corps' notice, before granting any section 404 permit, the Corps will "prepar[e] an Environmental Assessment and/or Environmental Impact Statement pursuant to the National Environmental Policy Act."

DOE has reviewed the Corps' notice of permit application and an Administrative Draft Environmental Assessment dated August 21, 2023, prepared for PG&E by Stantec Consulting Services, Inc. and attached as Appendix A to the Summary of Staff Recommendation of the California Coastal Commission filed September 15, 2023. DOE finds persuasive the Corps' preliminary determination that the proposed dredging activity will not require an environmental impact statement. DOE also finds that the changes in depth in certain portions of the Intake Cove, which the Diablo Canyon Independent Safety Committee agrees can be remedied by dredging the shallow areas, do not represent significant new circumstances or information relevant to environmental concerns that might require preparation of an EIS supplement.

Decision

DOE has decided to implement the Proposed Action to issue credits to PG&E for continued operation of DCPP, as identified in DOE/EIS–0555 and authorized under NRC licenses DPR-80 and DPR-82.

Basis for Decision

Approval of credits responds to the DOE purpose and need pursuant to the IIJA, which authorizes the Secretary of Energy to provide credits for nuclear reactors that meet certain minimum requirements: (1) a determination that the nuclear reactor is projected to close for economic reasons; (2) a determination that pollutants would increase if the nuclear reactor were to cease operations and be replaced with other types of power generation; and (3) that the NRC has reasonable assurance that the nuclear reactor will continue to be operate in accordance with its current license and poses no significant safety hazards (42 U.S.C. 18753). DOE also considered the environmental impacts and public comments when making its decision.

Mitigation Measures

The Project for which DOE has decided to issue credits includes all mitigation measures, terms, and conditions applied by the NRC in licenses DPR-80 and DPR-82. The mitigation measures, terms, and conditions represent practicable means by which to avoid or minimize

environmental impacts from operation of DCPP. NRC is responsible for ensuring compliance with all adopted mitigation measures, terms, and conditions for the Project set forth by NRC in licenses DPR-80 and DPR-82.

DOE's issuance or payment of any credits awarded to PG&E beyond the period that DCPP's current NRC operating licenses are in effect—that is, operations under a renewed license and not the current license—would be conditioned on PG&E's compliance with NRC requirements applicable to license renewal. DOE would stop payment of credits and initiate a process to satisfy DOE's NEPA obligations with respect to continuing payments during the period of operation under an NRC license renewal.

Habitat monitoring of the DCPP is continuous and ongoing due to mitigation measures put in place in the DCPP license terms after the 1976 ES Addendum, which required as a license condition that, "[b]efore engaging in additional construction or operational activities which may result in a significant adverse environmental impact that was not evaluated or that is significantly greater than that evaluated in this Environmental Statement, the applicant shall provide written notification to the Director of the Office of Nuclear Reactor Regulation." This license condition continues in the current NRC license, which states, "[a]s a condition of the Environmental Protection Plan (EPP) which is part of the NRC licenses for operation of DCPP, 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 [which may result in a significant increase in any adverse environmental impact previously evaluated] occurred.

Environmental monitoring continues to be conducted at DCPP under the Receiving Water Monitoring Program (RWMP) and includes monitoring tasks such as temperature monitoring, State Mussel Watch activities, and intertidal and subtidal surveys.

DOE's form credit award agreement for the CNC Program, which is publicly available,[3] also contains mitigation and monitoring measures. As applied to DCPP, this includes annual reporting requirements on estimates of emission of air pollutants avoided by the continued operation of the DCPP compared to the emission of air pollutants reasonably expected had DCPP terminated operation prior to the commencement of the award. Annual reporting requirements also include the number of stakeholder or community engagement events held by PG&E and their attendance, including organizations who represent community-based organizations, Disadvantaged Communities, federally-recognized Indian Tribes, State and local governments, economic development organizations, and labor representatives, as well as any community benefits agreements created, feedback received from stakeholders and federally-recognized Indian Tribes and steps to address feedback where necessary.

Finally, the award agreement requires recipients to attest to their compliance with all applicable laws, including environmental laws, in all material respects at the time of award agreement and each time the awardee requests payment. Environmental laws include any laws in effect as of the date of the award agreement and in the future which regulate or impose obligations relating to environmental impacts, and necessarily include any associated environmental mitigation measures in the terms of NRC licenses DPR-80 and DPR-82 and the associated mitigation measures contained therein. Future requirements imposed by the NRC would also be required by the credit award agreement for the Project. A recipient's misstatement or omission in representation of its compliance with all applicable laws may constitute an event of default, upon which DOE would have the right to exercise remedies, including withholding the payment of any credits.

Signing Authority

[3] U.S. Dep't of Energy Form of Civil Nuclear Credit Redemption Agreement, *https://www.energy.gov/sites/default/files/2022-05/US%20DOE%20CNC%20Guidance-%20Appendix%20B%20Draft%20Credit%20Redemption%20Agreement%20April%202022.pdf*.

This document of the Department of Energy was signed on December 21, 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 December 27, 2023.

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

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