

SECTION 1. Section 8610.5 of the Government Code is amended to read:

8610.5. (a) For purposes of this section:

(1) "Office" means the Office of Emergency Services.

(2) "Previous fiscal year" means the fiscal year immediately before the current fiscal year.

(3) "Utility" means an "electrical corporation" as defined in Section 218 of the Public Utilities Code.

(b) (1) State and local costs to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code that are not reimbursed by federal funds shall be borne by a utility operating a nuclear powerplant with a generating capacity of 50 megawatts or more.

(2) The Public Utilities Commission shall develop and transmit to the office an equitable method of assessing a utility operating a powerplant for its reasonable share of state agency costs specified in paragraph (1).

(3) Each local government involved shall submit a statement of its costs specified in paragraph (1), as required, to the office.

(4) Upon notification by the office, from time to time, of the amount of its share of the actual or anticipated state and local agency costs, a utility shall pay this amount to the Controller for deposit in the Nuclear Planning Assessment Special Account, which is continued in existence, for allocation by the Controller, upon appropriation by the Legislature, to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The Controller shall pay from this account the state and local costs relative to carrying out this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, upon certification of the costs by the office.

(5) Upon appropriation by the Legislature, the Controller may disburse up to 80 percent of a fiscal year allocation from the Nuclear Planning Assessment Special Account, in advance, for anticipated local expenses, as certified by the office pursuant to paragraph (4). The office shall review program expenditures related to the balance of funds in the account and the Controller shall pay the portion, or the entire balance, of the account, based upon those approved expenditures.

(c) (1) The total annual disbursement of state costs from a utility operating a nuclear powerplant within the state for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, shall not exceed the lesser of the actual costs or the maximum funding levels established in this section, subject to subdivisions (e) and (f).

(2) Of the annual amount of two million forty-seven thousand dollars (\$2,047,000) for the 2009–10 fiscal year, the sum of one million ninety-four thousand dollars (\$1,094,000) shall be for support of the office for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, and the sum of nine hundred fifty-three thousand dollars (\$953,000) shall be for support of the State Department of Public Health for activities pursuant to this section

and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code.

(d) (1) The total annual disbursement for each fiscal year, commencing July 1, 2009, of local costs from a utility shall not exceed the lesser of the actual costs or the maximum funding levels established in this section, in support of activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The maximum annual amount available for disbursement for local costs, subject to subdivisions (e) and (f), shall, for the fiscal year beginning July 1, 2009, be one million seven hundred thirty-two thousand dollars (\$1,732,000) for the Diablo Canyon site.

(2) The amounts paid by a utility under this section shall be allowed for ratemaking purposes by the Public Utilities Commission.

(e) The amounts available for disbursement for state and local costs as specified in this section shall be adjusted and compounded each fiscal year by the larger of the percentage change in the prevailing wage for San Luis Obispo County employees, not to exceed 5 percent, or the percentage increase in the California Consumer Price Index from the previous fiscal year.

(f) Through the inoperative date specified in subdivision (h), the amounts available for disbursement for state and local costs as specified in this section shall be cumulative biennially. Any unexpended funds from a year shall be carried over for one year. The funds carried over from the previous year may be expended when the current year's funding cap is exceeded.

(g) This section shall become operative on July 1, 2019.

(h) This section shall become inoperative ~~on August 26, 2025, and, as of January 1, 2026, is repealed.~~ 18 months after the permanent cessation of operations of both Diablo Canyon powerplant Units 1 and 2, and is repealed on the January 1 following the end of that 18-month period.

(i) When this section becomes inoperative, any amounts remaining in the special account shall be refunded to a utility contributing to it, to be credited to the utility's ratepayers.

SEC. 2. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.

(b) This division does not apply to any of the following activities:

- (1) Ministerial projects proposed to be carried out or approved by public agencies.
- (2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report, negative declaration, or other document, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located if the environmental impact report, negative declaration, or document includes the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies that the public agency finds are for the purpose of (A) meeting operating expenses, including employee wage rates and fringe benefits, (B) purchasing or leasing supplies, equipment, or materials, (C) meeting financial reserve needs and requirements, (D) obtaining funds for capital projects necessary to maintain service within existing service areas, or (E) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) All classes of projects designated pursuant to Section 21084.

(10) A project for the institution or increase of passenger or commuter services on rail or highway rights-of-way already in use, including modernization of stations and parking facilities. For purposes of this paragraph, "highway" shall have the same meaning as defined in Section 360 of the Vehicle Code.

(11) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(12) Facility extensions not to exceed four miles in length that are required for the transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(13) A project for the development of a regional transportation improvement program, the state transportation improvement program, or a congestion management program prepared pursuant to Section 65089 of the Government Code.

(14) Any project or portion thereof located in another state that will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in this state are subject to this division.

(15) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project that was not analyzed as a significant effect on the environment in the plan or other written documentation required by Section 21080.5 is subject to this division.

(16) Approvals or other actions necessary to allow for the continued operation of the Diablo Canyon powerplant site, as defined in Section 25548.1, as provided in Chapter 6.3 (commencing with Section 25548) of Division 15.

(c) If a lead agency determines that a proposed project, not otherwise exempt from this division, would not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment, but (A) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (B) there is no substantial evidence, in light of the whole record before the lead agency, that the project, as revised, may have a significant effect on the environment.

(d) If there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment, an environmental impact report shall be prepared.

(e) (1) For the purposes of this section and this division, substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.

(2) Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

(f) As a result of the public review process for a mitigated negative declaration, including administrative decisions and public hearings, the lead agency may conclude that certain mitigation measures identified pursuant to paragraph (2) of subdivision (c) are infeasible or otherwise undesirable. In those circumstances, the lead agency, prior to approving the project, may delete those mitigation measures and substitute for them other mitigation measures that the lead agency finds, after holding a public hearing on the matter, are equivalent or more effective in mitigating significant effects on the environment to a less than significant level and that do not cause any potentially significant effect on the environment. If those new mitigation measures are made conditions of project approval or are otherwise made part of the project approval, the deletion of the former measures and the substitution of the new mitigation measures shall not constitute an action or circumstance requiring recirculation of the mitigated negative declaration.

(g) Nothing in this section shall preclude a project applicant or any other person from challenging, in an administrative or judicial proceeding, the legality of a condition of project approval imposed by the lead agency. If, however, any condition of project approval set aside by either an administrative body or court was necessary to avoid or lessen the likelihood of the occurrence of a significant effect on the environment, the lead agency's approval of the negative declaration and project shall be invalid and a new environmental review process shall be conducted before the project can be reapproved, unless the lead agency substitutes a new condition that the lead agency finds, after holding a public hearing on the matter, is equivalent to, or more effective in, lessening or avoiding significant effects on the environment and that does not cause any potentially significant effect on the environment.

SEC. 3. Chapter 6.3 (commencing with Section 25548) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 6.3. DIABLO CANYON POWERPLANT

25548. The Legislature finds and declares all of the following:

(a) The impacts of climate change are occurring sooner and with greater intensity and frequency than anticipated, causing unprecedented stress on California's energy system. These impacts are simultaneously driving higher demand as more intense and frequent heat waves hit California and the Western region and reducing supply as drought conditions impact hydropower production and fires threaten electrical infrastructure.

(b) The Diablo Canyon powerplant currently supplies approximately 17 percent of California's zero-carbon electricity supply and 8.6 percent of California's total electricity supply. The Diablo Canyon powerplant's two units are scheduled to be retired in 2024 and 2025.

(c) Because of supply chain disruptions, the impact of tariff disputes, and other delays in installation of new clean energy generation and storage systems, including solar and wind projects with battery storage, there is substantial risk that insufficient new clean energy supplies will be online in time to ensure electricity system reliability when the Diablo Canyon powerplant is scheduled to be decommissioned. If the Diablo Canyon powerplant's operations are not extended, increased energy production from greenhouse-gas-emitting sources will result, exacerbating the climate impacts already stressing California's energy system, and the threat to overall energy reliability in the state will be enhanced.

(d) Continued operations of the Diablo Canyon powerplant for an additional five to ten years beyond 2024-25 is therefore critical to ensure statewide energy system reliability and to minimize the emissions of greenhouse gasses while additional renewable energy resources come online, until those new renewable energy resources are adequate to meet demand. Accordingly, it is the policy of the Legislature that extending the Diablo Canyon powerplant's operations for a renewed license term is prudent, cost-effective, and in the best interests of all California electricity customers.

(e) During this time, the state will continue to act with urgency to bring clean replacement power online to support reliability and achieve California's landmark climate goals. The state is accelerating efforts to bring offshore wind and other clean energy resources online including action to streamline permitting for clean energy projects.

(f) Continued operations of the Diablo Canyon powerplant for an additional five to ten years would entail no material operational or physical changes and no new or materially different adverse environmental impacts. Accordingly, the Legislature finds that continued operations is consistent with the state's environmental priorities, will not substantially interfere with public trust needs and resources, is otherwise consistent with the public trust doctrine, the Coastal Act, and the California coastal zone management program, and is in the best interests of the state.

(g) The estimated costs and timelines for design and construction of alternatives that would comply with the State Water Resources Control Board's Resolution Number 2010-0020, Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling, which were presented to the State Water Resources Control Board in accordance with Section 3.D. of the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling, conclusively establish that it is not practicable for Diablo Canyon Power Plant to achieve final compliance with the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling prior to October 31, 2035.

(h) To ensure that the Diablo Canyon powerplant may operate beyond the expiration dates of its current operating licenses, and to best serve the public interest, all relevant state agencies and the operator of Diablo Canyon powerplant must act quickly and in coordination to take all actions necessary and prudent to extend Diablo Canyon powerplant operations, including any State actions related to spent fuel storage facilities, particularly by prioritizing the consideration of applications and requests that are necessary to that end.

25548.1. For purposes of this chapter, the following definitions apply:

- (a) “Borrower” means the company licensed to operate the Diablo Canyon powerplant units 1 and 2.
- (b) “Commission” means the California Public Utilities Commission.
- (c) “Department” means the California Department of Water Resources.
- (d) “Diablo Canyon powerplant operations” means all aspects of operating the Diablo Canyon powerplant units 1 and 2 at the Diablo Canyon powerplant site, including cooling operations and spent fuel management and storage facilities.
- (e) “Diablo Canyon powerplant site” means the site containing the Diablo Canyon powerplant units 1 and 2, including both reactor units, spent fuel storage facilities, and appurtenant lands leased to or controlled by the operator.
- (f) “Expiration dates” means the expiration dates in effect on June 1, 2022, of the United States Nuclear Regulatory Commission operating licenses for Diablo Canyon unit 1, which is November 2, 2024, and unit 2, which is August 26, 2025.
- (g) “Extension of the operating period” means license renewal by the United States Nuclear Regulatory Commission and any other licensing, permitting or approvals by federal or state authorities necessary to allow continued Diablo Canyon Powerplant operations beyond the expiration date of the current license for each unit.
- (h) “Loan” means the funds loaned to the borrower by the department for the purpose of facilitating the extension of the operating period.
- (i) “Loan agreement” means the agreement and any amendments thereto entered into by the department and the borrower pursuant to this chapter.
- (j) “Operator” means the company licensed to operate the Diablo Canyon powerplant units 1 and 2 .
- (k) “State agency” means any agency, department, board, office, commission, or district of the state or a local government or local governments, including but not limited to the State Lands Commission, the California Coastal Commission, the State Water Resources Control Board, the Public Utilities Commission, and the State Office of Historic Preservation.

25548.2. For purposes of any application or request by the operator for a permit, lease, license, certification, concurrence, plan, decision, or other approval from a state agency, and of any request by the United States Nuclear Regulatory Commission for consultation or other input, that is necessary to authorize Diablo Canyon powerplant operations after the expiration dates, all of the following shall apply:

- (a) The state agency shall, in considering the application or request, prioritize the legislative findings and declarations in Section 25548.1.
- (b) Notwithstanding any other law, the state agency shall take final action on the application or request within 180 days of submission of a complete application or request.
- (c) The California Environmental Quality Act (Division 13 (commencing with Section 21000)), and regulations adopted pursuant to that division, do not apply.

(d) A coastal development permit, as described in Section 30600, shall not be required for any purpose in connection with the extension of Diablo Canyon powerplant operations, other than for any expansion of the concrete pad at the Diablo Canyon powerplant site used to hold fuel storage casks.

(e) The California Coastal Commission shall not require the operator to conduct any new studies or collect additional data in connection with a federal Coastal Zone Management Act consistency certification concerning the extension of Diablo Canyon powerplant operations.

25548.3. (a) In order to facilitate the extension of the operating period, the department is hereby authorized to make a loan or loans to the borrower in a total principal amount not to exceed \$1.4 billion.

(b) The department shall have the authority to enter into the loan agreement with the borrower. In addition to any terms and conditions determined necessary by the department, the loan agreement shall include:

(1) A covenant by the borrower that it shall take all steps necessary to obtain an extension of the operating period;

(2) A covenant by the borrower that it shall take all steps necessary to secure a grant or other funds available for the operation of a nuclear power plant from the United States Department of Energy, as well as any other potentially available federal funds;

(3) An interest rate that the department may charge, set at a rate less than the pooled money investment account rate.

(4) Events that would trigger loan repayment obligations by the borrower;

(5) Events that would trigger early termination of the loan agreement, including a determination that the borrower has not obtained the necessary license renewal, permits and approvals, or license renewal, permit, or approval conditions are too onerous; and

(6) Conditions that would result in forgiveness, in whole or in part, of the loan by the department, provided that any amount forgiven is limited to amounts already expended and that any unspent remainder of the loan must be repaid.

(7) A monthly performance-based disbursement equal to seven dollars for each megawatt hour generated by Diablo Canyon powerplant during the period prior to the start of extended operations. The disbursement is contingent upon the operator's ongoing pursuit of extension of the operating period and continued safe and reliable Diablo Canyon powerplant operations.

(c) Notwithstanding section 11019 of the Government Code, or any other provision of law, the department may disburse funds to the borrower in advance of the borrower having incurred eligible costs.

25548.4. (a) By 180 days after the date of the loan agreement, the department, in collaboration with the commission, shall establish a methodology and process for it to conduct a semi-annual true-up review of the borrower's use of loan proceeds.

(b) The purpose of the true-up review shall be to determine whether (i) the borrower used loan proceeds to pay only for eligible costs; (ii) eligible costs were reasonable; (iii)

such costs are in the public interest; and (iv) the commission has not authorized rate recovery of the same costs.

(c) If, upon completing a true-up review, the department determines that the borrower's use of loan proceeds did not meet the requirements set forth in subdivision (b), those amounts shall be deemed disallowed costs.

(d) If the department finds disallowed costs pursuant to subdivision (c), the department shall notify the borrower of the amount of disallowed costs as promptly as possible and the department shall take action to recoup the disallowed costs pursuant to the loan agreement.

25548.5. (a) The department may do any of the following as may be, in the determination of the department, necessary or appropriate for the purposes of this chapter:

(1) Enter into one or more agreements with the commission or other state agencies to facilitate the true-up reviews required by section 25548.4, facilitate extension of the operating period, and further the purposes of this chapter.

(2) Engage the services of private parties to render professional and technical assistance and advice and other services in carrying out the purposes of this chapter.

(3) Contract for the services of other public agencies.

(4) Disburse funds for the costs of the department in the administration of this chapter.

(b) Contracts entered into pursuant to this chapter, amendments to those contracts during their terms, or contracts for services reasonably related to those contracts, shall not be subject to competitive bidding or any other state contracting requirements, shall not require the review, consent, or approval of the Department of General Services or any other state department or agency, and are not subject to the requirements of the State Contracting Manual, the Public Contract Code, or the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(c) Any loan agreement entered into pursuant to this chapter, is not a project under Public Resources Code sections 21000 et seq., the California Environmental Quality Act.

(d) The powers and responsibilities of the department established pursuant to this chapter are separate from, and not governed by, the provisions relating to the State Water Resources Development System.

(e) All State agencies and other state entities, and their officers and employees, shall and are hereby authorized to, at the request of the department, give the department reasonable assistance or other cooperation in carrying out the purposes of this chapter.

25548.6. (a) The Diablo Canyon Extension Fund is hereby established within the state treasury. The money in the fund shall be available to the department for the administration and implementation of this chapter.

(b) Repayments of the loan shall be deposited into the Fund.

(c) Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the Department for the purposes authorized by this chapter.

(d) The Fund and the moneys in that fund are separate and distinct from any other fund and moneys administered by the department.

25548.7. Continued operation of the Diablo Canyon powerplant as provided in this chapter is in all respects for the welfare and the benefit of the people of the state, to protect public peace, health, and safety, and constitutes an essential governmental purpose. This chapter shall be liberally construed in a manner so as to effectuate its purposes and objectives.

SEC. 4. Section 30264.5 is added to the Public Resources Code, to read:

30264.5. (a) Notwithstanding any other provision of this division or regulations adopted pursuant to this division, the operation of a nuclear powerplant shall be permitted at the Diablo Canyon Powerplant site (as defined in section 25548.1), and the exclusive priority of the state for purposes of this division at that site, and in the appurtenant waters and areas of the coastal zone that may be affected by that site, is the generation and delivery of reliable and non-fossil-fuel based energy for the state.

(b) This section shall cease to be operative upon the earliest of a date set by the Public Utilities Commission for the retirement of the last reactor unit at the Diablo Canyon powerplant site, the expiration of the United States Nuclear Regulatory Commission license of the last reactor unit at the Diablo Canyon powerplant site, or November 1, 2035.

(c) This section shall be repealed as of November 1, 2035.

SEC. 5. Section 712.8 is added to the Public Utilities Code, to read:

[Forthcoming]

SEC. 6. Section ___ is added to the Water Code to read:

Notwithstanding any provision to the contrary in the State Water Resources Control Board's Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling, as referenced in Section 2922 of Title 23 of the California Code of Regulations, the final compliance dates for Diablo Canyon Power Plant Units 1 and 2 shall be October 31, 2035. Commencing on October 1, 2024, the annual interim mitigation fee to account for entrainment impacts resulting from continued ocean water intake at the Diablo Canyon Power Plant shall be ten dollars (\$10) per million gallons of water, with a three percent annual increase in subsequent years.

SEC. 7. The sum of _____ dollars (\$_____) is hereby appropriated to the Diablo Canyon Extension Fund.

SEC. 8. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances impacting the Diablo Canyon Power Plant, as described in Section 3 of this act.