



## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

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### National Environmental Policy Act Implementing Procedures for the Bureau of Reclamation (516 DM 1)

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice announces a revision to the National Environmental Policy Act (NEPA) implementing procedures for the Bureau of Reclamation (Reclamation) at Chapter 1 of Part 516 of the Department of the Interior's (Department or DOI) Departmental Manual (516 DM 1) – DOI Handbook of NEPA Implementing Procedures. The revision adds two new categorical exclusions (CEs) for hydropower-related activities in the DOI Handbook of NEPA Implementing Procedures, Appendix 2: Bureau Categorical Exclusions.

**DATES:** The revision is effective upon publication with the CEs available for immediate use upon this publication.

**ADDRESSES:** The substantiation record and supporting materials, including relevant Environmental Assessments (EAs) and Findings of No Significant Impact (FONSIs), are available at <https://www.usbr.gov/nepa>. The public can also view the CE substantiation report at <https://www.usbr.gov/nepa>. The web address for the DOI Handbook of NEPA Implementing Procedures where the new CEs are being added is:

<https://www.doi.gov/document-library/handbook/516-dm-1-handbook-national-environmental-policy-act-implementing>.

**FOR FURTHER INFORMATION CONTACT:** Shane Hunt via phone at 916-202-7158, or via email at [usbr\\_ce@usbr.gov](mailto:usbr_ce@usbr.gov). Individuals who are deaf, deafblind, hard of

hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The Bureau of Reclamation (Reclamation) was established in 1902. Its original mission was civil works construction to develop the water resources of the arid Western United States to promote the settlement and economic development of that region. Reclamation developed hundreds of projects to store and deliver water. That substantial infrastructure development contributed to making Reclamation the largest wholesale supplier of water in the United States.

Reclamation has had a long, successful history generating reliable, low-cost hydropower—delivering energy, economic, and national security benefits to western communities for over a century. Reclamation is the second-largest producer of hydroelectric power in the United States, owning 77 facilities and directly operating 53 of them, which together comprise over 14,750 megawatts of capacity. These “reserved” facilities generate an average of 37 million megawatt-hours of electricity annually—the equivalent demand of over 3.5 million U.S. homes.

In alignment with Executive Order 14154, Unleashing American Energy, and Secretary’s Order 3418, Unleashing American Energy, Reclamation is actively implementing a Hydropower Action Plan. This plan prioritizes capital investment, deregulation and process improvement, and technological innovation to maximize hydropower energy production, cost-savings, and operational efficiencies.

As part of this effort, Reclamation developed two CEs to add to its NEPA implementing procedures to improve the efficiency of NEPA compliance for hydropower

activities that have consistently demonstrated no significant environmental impacts to the human environment. When appropriately established and applied, CEs allow agencies to operate more efficiently to protect the environment by focusing their resources on proposals that may have significant environmental impacts.

## **II. NEPA**

NEPA, as amended, 42 U.S.C. 4321-4347, requires Federal agencies to consider the environmental effects of their proposed actions in their decision-making processes and inform and engage the public in that process. 42 U.S.C. 4331.

NEPA also established the Council on Environmental Quality (CEQ) as an advisory agency within the Executive Office of the President on environmental matters and the implementation of NEPA. NEPA requires Federal agencies to identify and develop methods and procedures, in consultation with CEQ, to ensure appropriate consideration of environmental concerns. 42 U.S.C 4332(2)(B).

To comply with NEPA, agencies determine the appropriate level of review of major Federal actions subject to NEPA, with the level of review corresponding to anticipated effects on the quality of the human environment. If a proposed major Federal action is likely to have reasonably foreseeable significant environmental effects, the agency must prepare an environmental impact statement (EIS) to support its approval. 42 U.S.C. 4336(b)(1). If the proposed action is not likely to have reasonably foreseeable significant environmental effects or if the significance of the effects is unknown, the agency may instead prepare an environmental assessment (EA), which is a concise public document used to support agency decision-making. 43 U.S.C. 4336(b)(2). After completing the analysis in an EA, the agency may conclude that the action will have no significant effects and document that conclusion in a finding of no significant impact (FONSI) or conclude that the action is likely to have significant effects and therefore requires preparation of an EIS. 42 U.S.C. 4336(b)(2).

Under NEPA, an agency also may establish CEs —categories of actions that the agency has determined normally do not significantly affect the quality of the human environment—in its agency NEPA procedures as an additional form of NEPA review. 42 U.S.C. 4336e(1). If Reclamation or another bureau or office within DOI determines that a CE covers a proposed action, it must then evaluate the proposed action for extraordinary circumstances, which are factors or circumstances that indicate a normally categorically excluded action may have a significant effect. 43 CFR 46.205, 46.215. If Reclamation or another bureau cannot categorically exclude the proposed action following review for extraordinary circumstances (i.e., there are extraordinary circumstances present), it will prepare an EA or EIS, as appropriate, before issuing any decision to authorize the action. 43 CFR 46.205(c), 42 U.S.C. 4336(b).

Bureaus and DOI establish new or revise existing CEs by substantiating the proposed new or revised CEs with sufficient information to demonstrate that the actions included in the category normally do not have a significant effect on the quality of the human environment and provides this substantiation in a written record that is made publicly available. In developing NEPA procedures, bureaus and DOI also consult with CEQ in accordance with 42 U.S.C. 4332(2)(B).

### **III. Categorical Exclusions Justification**

The Department and Reclamation find that the categories of actions described in the two CEs being added to DOI's NEPA implementing procedures normally do not have a significant effect on the human environment, absent extraordinary circumstances. This finding is based on Reclamation's history and over 40 years of experience analyzing actions under NEPA and using CEs; and post-implementation review of authorized actions that confirms that these actions normally do not have a significant effect on the human environment.

To demonstrate the finding that actions under the proposed CEs would not normally result in significant effects on the human environment, Reclamation reviewed proposed actions evaluated in 10 EAs that supported FONSI as well as post-implementation information and summarized them in the CE substantiation report included in this notice's supporting documentation. These 10 EAs that supported FONSI analyze actions that these CEs are designed to cover in the future.

DOI recognizes that certain proposed actions, when reviewed on a case-by-case basis, may implicate one or more extraordinary circumstances, and for those proposed actions where a normally excluded action may have a significant effect, bureaus will prepare an EA or EIS. Thus, prior to applying any CE, bureaus will review the proposed action to ensure it is covered by the CE and evaluate the proposed action for the presence of any extraordinary circumstances.

Reclamation requires that any action for which one of the new CEs is applied must be documented. Reclamation documents CE use with a checklist to demonstrate a) the applicability of the CE, and b) that no extraordinary circumstances are present such that a normally excluded action may have a significant effect. In such cases where a normally excluded action may have a significant effect, Reclamation will conduct additional NEPA analysis and prepare an EA or EIS, as appropriate.

#### **IV. Text for the DOI Handbook of NEPA Implementing Procedures**

The Department's NEPA procedures are modified with additions as follows. The DOI Handbook of NEPA Implementing Procedures, Appendix 2: Bureau Categorical Exclusions:

##### **Bureau of Reclamation**

##### 14.5 Categorical Exclusions

##### C. Project Implementation Activities.

(5) \*Issuance of a lease of power privilege or alternative authorization by Reclamation, approving non-federal hydropower development which merely augments or supplements existing Reclamation Project facilities.

**D. Operation and Maintenance Activities.**

(10) \*Maintenance, rehabilitation, and replacement of existing hydropower facilities and equipment, including all powertrain and balance of plant equipment, which may involve a minor change in size, location, and/or operation. Covered facilities and equipment include, but are not limited to, turbines, generators, transformers, cranes, pumps, gates, control and communication systems, and new instrumentation.

**Authorities**

National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

**Stephen G. Tryon,**

*Director, Office of Environmental Policy and Compliance.*

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