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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 380

[Docket No. RM26-7-000]

RIN 1902-AG50

Categorical Exclusion under the National Environmental Policy Act for Certain Terminations or Revocations of Water Power Licenses or Exemptions

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission amends its regulations implementing the National Environmental Policy Act (NEPA) to expand an existing Categorical Exclusion (CE) to include "terminations or revocations of water power licenses and exemptions that will result in minor or no ground disturbing activity and minor or no changes in reservoir conditions and downstream flows."

DATES: This rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].**

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SUPPLEMENTARY INFORMATION:

1. Section 380.4 of the Federal Energy Regulatory Commission's (Commission) regulations implementing the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq*., identifies categories of actions or projects for which generally neither an Environmental Assessment nor an Environmental Impact Statement will be prepared (Categorical Exclusions or CE).[1] In this final rule, the Commission amends the existing Categorical Exclusion at section 380.4(a)(13) to add a category of actions for "Terminations or revocations of water power licenses and exemptions that will result in minor or no ground disturbing activity and minor or no changes in reservoir conditions and downstream flows."

[1] 18 CFR 380.4.

I. Background

A. Categorical Exclusions under NEPA

2. NEPA requires federal agencies to consider the environmental effects of their proposed actions in their decision-making process and to inform and engage the public in that process. For a proposed major federal action with a reasonably foreseeable significant effect on the quality of the human environment, the responsible federal agency shall issue an Environmental Impact Statement (EIS).[2] For a proposed major federal action with an unknown or lesser effect, the agency shall issue a more concise Environmental Assessment (EA) unless the agency finds that the proposed action is covered by a Categorical Exclusion or is exempt from NEPA review under another law.[3]

3. A CE describes "a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment."[4] Applying a CE allows an agency to satisfy NEPA's requirements more efficiently by reducing the resources spent analyzing proposals that normally do not have significant environmental effects. Agencies may establish a new CE if they have reliable data and resources, such as previous EAs, to determine that the category of actions does not normally result in

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[2] 42 U.S.C. 4336(b)(1).

[3] *Id.* 4336(a)(2), (b)(2).

[4] *Id.* 4336e(1).

significant effects.[5] The Council on Environmental Quality interprets "normally" in this context to mean considerably more often than not.[6]

4. In deciding whether a specific proposed action is excluded from case-specific NEPA review under a CE, the Commission and its staff independently evaluate environmental information supplied by an applicant or project sponsor, by Commission staff inspections or research, by other federal agencies, and by commenting stakeholders, to determine whether circumstances indicate that a proposed action, although it meets the description of a CE, may be a major Federal action significantly affecting the quality of the human environment.[7] A list of such circumstances, often referred to as "extraordinary circumstances," is set out in the Commission's regulations at 18 CFR 380.4(b)(2).

B. Categorical Exclusions and Hydropower Licensing

5. Part I of the Federal Power Act (FPA)[8] establishes Commission jurisdiction over non-federal hydropower projects throughout the United States. The FPA makes it unlawful for any person, State, or municipality to build and operate a hydropower project subject to the Commission's jurisdiction unless they obtain a license[9] from the Commission.

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[5] Council on Environmental Quality, *Establishing, Adopting, and Applying Categorical Exclusions under the National Environmental Policy Act* at 3-4 (Apr. 9, 2026), https://ceq.doe.gov/docs/ceq-regulations-and-guidance/Categorical-Exclusion-Guidance-2026.pdf (CEQ 2026 Categorical Exclusion Guidance).

[6] *Id.* at 3.

[7] 18 CFR 380.4(b)(1).

[8] 16 U.S.C. 791a–823g.

[9] Congress also empowered the Commission to exempt certain hydropower

6. A license may be ended by licensee-initiated surrender[10] or by Commission-initiated termination for failure to commence construction,[11] termination by implied surrender,[12] or revocation.[13] The Commission's authority over the decommissioning of a project extends to determining whether project works[14] should be removed and the extent of site restoration.[15] Of the four types of license-ending actions above, the Commission's existing regulations only specifically address the level of NEPA review for licensee-initiated surrenders. Section 380.5 of the Commission's regulations implementing NEPA states that an EA will normally be prepared first for "[s]urrender of water power licenses and exemptions where project works exist or ground disturbing activity has occurred . . . ."[16] Under the existing CE at section 380.4(a)(13), no EA or EIS will be

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projects from various provisions of Part I of the FPA, but such projects remain subject to mandatory terms and conditions set by federal and state fish and wildlife agencies and by the Commission. Given that there are no distinctions between licenses and exemptions relevant to this proceeding, we will refer herein to "licenses" as including exemptions and "licensees" as including exemptees.

[10] 18 CFR 6.1, 6.2 (surrender of license), 4.95 (surrender of exemption), 4.102 (surrender of exemption). A licensee may request surrender for a variety of reasons, for example if the licensee determines that the project is no longer economical or if natural disasters have damaged or destroyed project facilities. *See* FPA § 6, 16 U.S.C. 799 ("Licenses … may be altered or surrendered only upon mutual agreement between the licensee and the Commission after thirty days' public notice.").

[11] *Id.* 6.3 (licenses), 4.94(c), 4.106(c) (exemptions).

[12] *Id.* 6.4 (licenses), 4.94(a), 4.106(a) (exemptions).

[13] 16 U.S.C. 823b(b) (licenses and exemptions).

[14] "Project works" are the physical structures of a project. 16 U.S.C. 796(12).

[15] *Project Decommissioning at Relicensing*, 60 FR 339, 340 (Jan. 4, 1995), FERC Stats. & Regs. ¶ 31,011 (1994) (cross-referenced at 69 FERC ¶ 61,336 (1994) (Decommissioning Policy Statement).

[16] 18 CFR 380.5(b)(13).

prepared for the "surrender of water power licenses and exemptions where no project works exist or ground disturbing activity has occurred."[17] The Commission's order either approving or denying the licensee's surrender indicates how the Commission complied with NEPA. The surrender becomes effective after the licensee fulfills any conditions for disposing of project works and restoring project lands that may be required by the Commission.

7. License termination or revocation may occur in the following circumstances:

- Termination for Failure to Commence Construction: Commission-initiated termination after notice if the licensee fails to commence actual construction of the project works within the time prescribed by the Commission.[18]
- Termination by Implied Surrender: Commission-initiated termination after notice when a licensee or exemptee, by action or inaction, has indicated its intent to abandon the project but has not filed a surrender application or has failed for several years to operate or maintain the project with no indication of doing so in the reasonably foreseeable future.[19]
- Revocation: Commission-initiated revocation under FPA § 31 when the licensee has knowingly violated a compliance order from the Commission despite having

[17] *Id.* 380.4(a)(13).

[18] 16 U.S.C. 806; 18 CFR 4.94(c), 4.106(c), 6.3; *see also id.* 375.308(e), (f) (delegating limited authority to the Director of the Office of Energy Projects to terminate licenses or revoke exemptions for failure to construct).

[19] 18 CFR 6.4, *see, e.g.*, FERC, *Standard License Article 30, Form L-1* (1975) (describing the triggers, process, and liabilities for implied surrender), https://www.ferc.gov/industries-data/hydropower/administration-and-compliance/standard-l-e-p-form-articles; 18 CFR 6.4 (same).

been given a reasonable time to comply.[20]

The Commission's existing regulations do not specifically address the level of NEPA review for the above types of terminations or revocations.

8. The potential environmental effects vary for each proposed action based on the disposition of project works as part of decommissioning. Termination for failure to commence construction results in no environmental effects because the licensee has not yet altered the project site. Both termination by implied surrender and revocation typically leave project facilities in place without further licensee action that would alter the conditions of the project or affect the surrounding environment. Following termination or revocation, the project is removed from the Commission's FPA jurisdiction but remains subject to applicable federal, state, and local laws, including state regulatory programs for dam safety.[21] When evaluating a project for termination by implied surrender or for revocation, Commission staff reviews the project compliance history, including dam safety inspection reports and compliance with the recommendations in them, to determine current conditions at the site, and coordinates with the appropriate state or local dam safety authorities. The Commission cannot

[20] 16 U.S.C. 823b(b).

[21] *E.g.*, *Leonard Lundgren*, 10 FERC ¶ 61,270, at 61,524 (1980) (explaining that after termination of the license for a project on National Forest land, the project owner's continued use of the project dam and facilities for irrigation, without generating electricity, would be subject to the supervision of the U.S. Forest Service under a permit for continued occupancy of national forest lands by part of the project); *Pub. Util. Dist. No. 1 of Okanogan Cnty., Wash.*, 169 FERC ¶ 61,215, at P 19 (2019) (explaining that Commission staff had coordinated with the Washington State Department of Ecology, Dam Safety Division, before terminating a license for failing to construct new facilities at the existing Enloe Dam).

conduct post-action monitoring because it lacks jurisdiction following termination or revocation.

9. Commission experience has shown that few or no environmental effects result from terminations by implied surrender or from revocations of water power licenses and exemptions with minor or no ground disturbing activity and minor or no changes in reservoir conditions and downstream flows. The Commission is therefore adding this category of actions to the existing CE at section 380.4(a)(13). The changes to section 380.4(a)(13) make a CE available for certain future terminations and revocations as a form of review that may be used to comply with NEPA, providing more efficient oversight of hydropower projects and more efficient use of Commission resources.

C. Substantiation and Notice of Proposed Rulemaking

10. Commission staff prepared a Draft Substantiation Record based on EAs for all implied surrender terminations and revocations since 1978.[22] The Commission has never found a potentially significant effect from a termination or revocation such that an EIS was required.

11. Commission staff prepared an EA in thirteen previous implied surrender termination or revocation proceedings. The EAs evaluated effects on geology and soils, water quality and quantity, aquatic resources, terrestrial resources, recreation, land use, aesthetics, cultural resources, air quality, and threatened and endangered species, as relevant to each proceeding.

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[22] The Draft Substantiation Record is discussed in more detail in the Notice of Proposed Rulemaking. *Categorical Exclusion under the Nat'l Env't Pol'y Act for Certain Terminations or Revocations of Water Power Licenses & Exemptions*, 91 FR 8799, 8801 (Feb. 24, 2026), 194 FERC ¶ 61,127 at PP 10-15 (2026).

12. Six of the EAs recommended termination or revocation without further requirements on the licensee.[23] These EAs determined that the proposed actions would result in no changes to existing project facilities, no ground-disturbing activity, and no addition or change to the existing passive effect of the project works on the reservoir, flows, and environmental resources at the projects. Accordingly, these EAs found no potential effects on any environmental resource area.

13. The other seven EAs evaluated terminations and revocations with further actions to be conducted by the licensee, as required by the Commission's dam safety oversight program or by another federal agency, to stabilize, repair, or remove project works.[24] Although the EAs identified more potential effects than in the cases requiring no further action by the licensee, they uniformly concluded that the terminations and revocations would not significantly affect the quality of the human environment.[25]

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[23] See the discussion in the Substantiation Record of the Whittelsey Dam Hydroelectric Project No. 10522-024; Gilman Stream Hydroelectric Project No. 7473-013; Hammeken's Powerhouse Canal Project No. 9647-003; Blackstone Mill Hydroelectric Project No. 11426-003; Appleton Trust Project No. 9300-018; and Lowell Atlantic Hydroelectric Project No. 5946-007.

[24] See the discussion in the Substantiation Record of the Upper Watertown Dam Project No. 9974-040, -048; Star Milling and Electric Minor Water Power Project No. 11291-023; Bannister Mill Project No. 8656-007; 29-Mile Creek Project No. 7931-021; Slaughterhouse Gulch Project No. 6375-006; Tyrone Project No. 6624-009; and Mechanicville Hydroelectric Project No. 6032-041.

[25] Commission staff identified the implied surrender termination for the Mechanicville Hydroelectric Project No. 6032-041 as an outlier. *Niagara Mohawk Power Corp.*, 98 FERC ¶ 61,227 (2002) (including EA). The EA evaluated termination with a requirement for the licensee to repair and stabilize the dam and powerhouse. The EA concluded that the activities could reintroduce polychlorinated biphenyl (PCB) pollution from the riverbed into the water column. *Id.* EA at G.2. This potential for more than a minor change to reservoir conditions and downstream flows would have placed the termination outside the scope of the proposed CE.

14. These examples informed the proposed CE. Consistent with the previous EAs, discussed in detail in the Substantiation Record, the Commission finds that "terminations or revocations of water power licenses that will result in minor or no ground disturbing activity and minor or no changes in reservoir conditions and downstream flows" normally do not significantly affect the quality of the human environment, absent extraordinary circumstances.

15. On February 24, 2026, the Commission and its staff issued a Notice of Proposed Rulemaking (NOPR)[26] and the Draft Substantiation Record for public review and comment. The Commission proposed to separate the clauses in the existing CE in section 380.4(a)(13) and add a clause for terminations and revocations of water power licenses and exemptions. The existing regulation states:

> (a) *General rule.* Except as stated in paragraph (b) of this section, neither an environmental assessment nor an environmental impact statement will be prepared for the following projects or actions:
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> * * *
>
> (13) Surrender and amendment of preliminary permits, and surrender of water power licenses and exemptions where no project works exist or ground disturbing activity has occurred and amendments to water power licenses and exemptions that do not require ground

[26] *Categorical Exclusion under the Nat'l Env't Pol'y Act for Certain Terminations or Revocations of Water Power Licenses & Exemptions*, 91 FR 8799, 194 FERC ¶ 61,127.

disturbing activity or changes to project works or operation;

* * *

The proposed revision to 18 CFR 380.4(a)(13) states:

(13) Certain amendments, surrenders, terminations, and revocations of preliminary permits and water power licenses and exemptions:

(i) Amendments or surrenders of preliminary permits;

(ii) Amendments to water power licenses and exemptions that do not require ground disturbing activity or changes to project works or operation;

(iii) Surrenders of water power licenses and exemptions where no project works exist or ground disturbing activity has occurred; or

(iv) Terminations or revocations of water power licenses and exemptions that will result in minor or no ground disturbing activity and minor or no changes in reservoir conditions and downstream flows;

16. The Commission received seven comments on the NOPR from individuals and organizations opposing one or more aspects of the proposed change to

section 380.4(a)(13).[27] The Commission received two comments from entities in the hydropower industry supporting the proposed change.[28] We have considered these comments in developing this final rule.

II. Discussion

17. The purpose and effect of the revised CE is to better enable the Commission to prioritize its resources for the different levels of NEPA review.[29] The addition to the CE addresses only whether an EA or EIS is required for the category of actions described as "terminations or revocations of water power licenses and exemptions that will result in minor or no ground disturbing activity and minor or no changes in reservoir conditions and downstream flows." The expanded CE does not affect the Commission's responsibilities or requirements under the FPA, the Clean Water Act (CWA), the Endangered Species Act (ESA), or other applicable statutes. The Commission's authority to consider and protect the various public interests that might be implicated by termination or revocation remains.[30]

18. NEPA itself does not dictate how an agency should substantiate and establish a CE, but CEQ's 2026 guidance on categorical exclusions provides helpful information. For purposes of expanding a CE in this rulemaking, two questions are most relevant.

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[27] Commenters that oppose the NOPR include: Addison Lee; American Whitewater and the California Sportfishing Protection Alliance; the Hydropower Reform Coalition; Madeline Stewart; the Michigan Department of Natural Resources (Michigan DNR); The Nature Conservancy; and New York Rivers United.

[28] Commenters that support the NOPR include Patriot Hydro LLC and American Dams.

[29] *See* 42 U.S.C. 4336.

[30] *Cf.* Decommissioning Policy Statement, 60 FR at 344 (addressing the Commission's role in decommissioning when a license is surrendered).

First, has the Commission developed a written record of reliable data and resources to substantiate its determination that the category of actions normally does not significantly affect the quality of the human environment?[31] Second, is the text of the CE unambiguous and written in plain language allowing Commission staff, project sponsors, and the public to clearly understand the category of actions that it covers, including clear descriptions of any limitations upon its use or scope?[32] We respond to comments on the NOPR within this framework.

A. Substantiation for Limited Terminations and Revocations of Licenses

19. Several commenters claim that the analysis and conclusions in the Substantiation Record underestimate the potential environmental impact of terminations and revocations of water power licenses to be covered by the expanded CE.[33] American Whitewater states that the Commission improperly assumes that the environmental baseline is the environment as it exists with the currently licensed facilities and operations rather than the environment as it existed before the project was constructed.[34] American Whitewater states that the court rejected this interpretation in *American Rivers v. FERC*.[35] Focusing on revocations for noncompliance, Michigan DNR states that the sum of impacts of past noncompliance at those projects was never evaluated under the FPA.[36]

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[31] CEQ 2026 Categorical Exclusion Guidance at 3-4.

[32] *Id.* at 2-3.

[33] *E.g.*, American Whitewater Comment at 3-4, Michigan DNR Comment at 1, Hydropower Reform Coalition Comment at 1, New York Rivers United Comment at 1.

[34] American Whitewater Comments at 3-4.

[35] *Id.* at 3-4 (citing *Am. Rivers v. FERC*, 895 F.3d 32, 54-55 (D.C. Cir. 2018)).

[36] Michigan DNR Comments at 1.

20. We disagree. The Commission's past EAs are an appropriate source of reliable data for our determination about the potential impact of the terminations and revocations covered by the expanded CE.[37] All past EAs satisfied the then-effective requirements under NEPA and NEPA-implementing regulations previously promulgated by the Commission and by the Council on Environmental Quality. It has long been the Commission's practice to use existing project conditions as a baseline for NEPA analysis.[38] Under both the FPA and NEPA, courts have held that the appropriate environmental baseline for evaluating potential impacts of a proposed action at an existing dam is the existing conditions at the project.[39] Moreover, the D.C. Circuit's January 2025 decision in *American Whitewater v. FERC*[40] affirmed the Commission's use of existing conditions when examining an application to surrender a license where dam removal was a concern for commenters.[41]

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[37] CEQ 2026 Categorical Exclusion Guidance at 4 (describing the common method of considering previous NEPA evaluations).

[38] *See*, *e.g.*, *Brookfield White Pine Hydro LLC*, 182 FERC ¶ 61,099, at P 21 (2023). *See also Marin Audubon Soc'y v. Fed. Aviation Admin.*, 121 F.4th 902, 917 (D.C. Cir. 2024) (citing *Conservation Law Found. v. FERC*, 216 F.3d 41 (D.C. Cir. 2000) (treating existing conditions at the dam as the baseline "no action" option did not violate the Commission's duty of protecting, mitigating damage to, and enhancing fish and wildlife)).

[39] *See Conservation Law Found.*, 216 F.3d at 46; *Am. Rivers v. FERC*, 201 F.3d 1186, 1195-98 (9th Cir. 2000). *See also City of Tacoma, Wash.,* 71 FERC ¶ 61,381, at 62,492 (1995) ("[U]se of existing conditions as the starting point for analysis is reasonable, ... is not precluded by either the language or legislative history of the FPA, ... [and] does not preclude us from considering, in appropriate cases, available information concerning resources affected by a project....").

[40] 125 F.4th 1139, 1149 (D.C. Cir. 2025).

[41] *See id.* at 1149.

21. The Commission's approach is consistent with the D.C. Circuit's 2018 *American Rivers* decision, which addressed a Commission order renewing a hydropower license. In that case, the court focused primarily on a failure by the U.S. Fish and Wildlife Service to incorporate degraded baseline conditions into its jeopardy analysis for species and habitats designated for protection under the ESA that could be affected by the proposed relicensing of several hydroelectric projects on Alabama's Coosa River.[42] Given that the Commission's analysis of cumulative effects under NEPA had relied upon content from the deficient Biological Opinion, the court concluded that the Fish and Wildlife Service's flawed baseline "fatally infected" the Commission's cumulative effects analysis.[43]

22. American Whitewater does not identify any flaws in the previous EAs from the Substantiation Record, whether with regard to their consideration of "cumulative" effects or otherwise. In every example—even where the Commission analyzed requirements for further action by the licensee to stabilize, repair, or remove project works—the EA concluded that the proposed termination or revocation would not result in a significant effect on the quality of the human environment.[44] That extensive and consistent record, with which American Whitewater identifies no flaws, substantiates our conclusion that the category of actions covered by the revised CE "normally does not significantly affect the quality of the human environment within the meaning of [NEPA]."[45] The D.C.

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[42] 895 F.3d at 44–49.

[43] *Id.* at 55. We note that the CEQ regulations defining and requiring consideration of "cumulative effects" under NEPA have since been rescinded. *See Removal of Nat'l Env't Pol'y Act Implementing Reguls.*, 91 FR 618 (Jan. 8, 2026).

[44] *E.g.*, Final Substantiation Record at 4-5.

[45] 42 U.S.C. 4336e(1).

Circuit's decision in *American Rivers*, which identified case-specific flaws in an unrelated NEPA analysis for a different type of Commission action (granting a license), is not pertinent to that dispositive determination.

23. Regarding revocations for noncompliance, "the sum of impacts of noncompliance at those projects," noted by Michigan DNR, does inform the Commission's decisions under the FPA whether to revoke such licenses and how to approach decommissioning. But a licensee's past failure to comply with the requirements of its license does not independently trigger NEPA review.[46] We understand Michigan DNR to be concerned primarily with a licensee's noncompliance through failing to maintain a dam. In proceedings both for licensee-initiated surrender and Commission-initiated termination or revocation, the Commission considers present and future dam safety. Moreover, the previous EAs in the Substantiation Record accounted for the present impacts of past actions as reflected in existing conditions at the projects, and they concluded that the proposed terminations or revocations would not result in a significant effect on the quality of the human environment. Given that record, the CE amendment we are adopting is proper.

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[46] In the context of private action, the test for a "major federal action" triggering NEPA is "whether federal approval is the prerequisite to the action taken by the private actors and whether the federal agency possesses some form of authority over the outcome." *E.g.*, *Mayaguezanos por la Salud y el Ambiente v. U.S.*, 198 F.3d 297, 302 (1st Cir. 1999). The Commission does not approve a licensee's noncompliance with a license; there is no federal action to trigger NEPA. By contrast, the Commission's approval of a variance from a license can trigger NEPA. *E.g., Pac. Gas & Elec. Co.*, 195 FERC ¶ 62,085 (2026) (variance from minimum flow requirements evaluated in an EA). Also, where the Commission requires remediation after a noncompliance event, such as an emergency, this can be a major federal action triggering NEPA. *E.g., Cal. Dep't of Water Res.*, 182 FERC ¶ 61,082 (2024) (remediation for spillway failure evaluated in an EA).

24. Regarding present and future impacts, Michigan DNR states that because existing license conditions dictate impoundment levels and flow releases, measures for management of aquatic and terrestrial habitat, and recreation amenities, the termination or revocation of a license can directly impact species and habitats and public recreation.[47] The Hydropower Reform Coalition and Michigan DNR state that the Commission improperly evaluates only the impacts of license termination, i.e., only the project's existing environmental impacts, without assessing the reasonably foreseeable impacts of noncompliance with license terms, failure to act when required, leaving facilities in place, and the deterioration of abandoned or neglected projects.[48]

25. The Hydropower Reform Coalition states that the Commission improperly assumes that license termination has no environmental effect despite the reality that the continued presence of an unmitigated dam can have impacts comparable to or greater than an operating project.[49] New York Rivers United notes that debris accumulation within project facilities can alter hydraulic conditions, create localized pressure loads, and affect the stability or performance of project works, regardless of whether the project is generating electricity, and may present environmental or safety considerations even where the termination itself does not involve immediate ground disturbance or operational changes.[50]

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[47] Michigan DNR Comments at 1.

[48] Hydropower Reform Coalition at 1; Michigan DNR Comments at 2-3.

[49] Hydropower Reform Coalition Comments at 2.

[50] New York Rivers United at 1-2.

26. As explained above, and documented in the Substantiation Record, the Commission's NEPA review considers the reasonably foreseeable effects of the Commission's action to terminate or revoke the license. Terminating or revoking the license does not itself authorize or require any action that could result in an environmental impact. Project decommissioning with only minor ground disturbance and minor changes to reservoir conditions or downstream flows results in minimal changes and correspondingly minimal impacts, and the previous EAs identified in the Substantiation Record appropriately analyzed those terminations and revocations as narrow actions with narrow potential impacts. The Substantiation Record indicates that the terminations and revocations do not normally result in significant effects. Michigan DNR's concerns would be addressed by Commission staff's dual screening to determine (a) whether a license termination or revocation, including any requirements for decommissioning, would result in more than minor ground disturbance or more than minor changes in reservoir conditions or downstream flows; and (b) whether any Extraordinary Circumstance is present and demonstrates that the termination or revocation might be a major federal action significantly affecting the quality of the human environment. Where the Commission's proposed action exceeds these thresholds, Commission staff will prepare an EA or EIS.

27. We also acknowledge that the continued presence of project works left in place, especially a dam, can impact environmental resources, public safety, and other aspects of the public interest, in particular if the project works degrade over time. However, commenters mischaracterize the Commission's previous NEPA analyses. Seven of the thirteen previous EAs for terminations and revocations acknowledged and evaluated the

need for further action by the licensee to stabilize, repair, or remove project works.[51] For example, the previous EAs for the termination of the licenses for the Star Milling and Electric Minor Water Power Project and the Mechanicville Hydroelectric Project evaluated the condition of existing project works, the impacts of leaving them in place, and the measures to address their deterioration.[52] Although the seven EAs identified greater potential effects than in the cases requiring no further action by the licensee, the EAs uniformly concluded that the terminations and revocations would not significantly affect the quality of the human environment.[53]

28. The Commission has authority to ensure that a project is decommissioned in a manner that is consistent with the public interest.[54] There are myriad considerations involved in determining what form decommissioning will take, from a minimum of disabling generation to a maximum of removing project works and restoring the site to pre-project conditions.[55] The Commission will continue to evaluate both the existing condition of project works and possible deterioration, even if the CE applies, as part of the Commission's decision whether to terminate or revoke a license and how to decommission the project. The comments do not call into question the previous EAs as support for the Commission's determination that terminations or revocations, even with requirements to stabilize, repair, or remove project works, can be categorically excluded

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[51] Final Substantiation Record at 5, 19-29.

[52] *Id.* at 19-21, 26-29.

[53] *Id.*

[54] Decommissioning Policy Statement, 60 FR at 340.

[55] *Id.* at 340, 344.

from the preparation of a case-specific NEPA document if there will be, at most, minor ground disturbance or minor changes in reservoir conditions and downstream flows. The Substantiation Record supports the Commission's determination that these terminations and revocations are a category of actions that normally do not significantly impact the human environment.

29. New York Rivers United states that the Commission should ensure that its regulations preserve the ability to conduct site-specific environmental review where factors like the physical condition of project works, long periods of operational inactivity, dam safety conditions, property rights and land ownership, deferred maintenance, or changes in river management present broader public interest concerns.[56]

30. The expanded CE does not alter the Commission's flexibility to consider the unique circumstances of each case. The Commission's existing regulation at section 380.4(b) explains that the Commission and its staff will independently evaluate environmental information from the project sponsor and from the public to determine whether circumstances indicate that an action may be a major Federal action significantly affecting the quality of the human environment. Where this is the case, the Commission will prepare an appropriate environmental document.[57]

B. Applying "Minor"

31. Commenters Addison Lee and Madeline Stewart express concern that if the Commission does not specifically define the word "minor" in the language limiting the CE to terminations or revocations of water power licenses and exemptions "that will

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[56] New York Rivers United Comments at 1-2.

[57] 18 CFR 380.4(b)(1).

result in *minor* or no ground disturbing activity and *minor* or no changes in reservoir conditions and downstream flows," then the Commission will hold too much discretion in how it interprets and applies the CE in the future, and it might apply the CE where it should not be applied.[58]

32. Words such as "minor" are not susceptible of an exact definition, and it is appropriate for the Commission to use and apply such terms on a case-by-case basis.[59] The use of such terms in a regulatory context is ubiquitous,[60] including in the Commission's other CEs,[61] and has not led to overbroad or otherwise improper application of those CEs. The text of the expanded CE, as well as the historical examples in the Substantiation Record, will provide agency staff, project sponsors, and the public a sufficient basis to understand the category of actions it covers.

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[58] Addison Lee March 13, 2026 Comments at 1; Madeline Stewart March 23, 2026 Comments 1.

[59] *Cf. Morgan Stanley Cap. Grp. Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty, Wash.*, 554 U.S. 527, 532 (2008) (explaining that the FPA's requirement that electricity rates be "just and reasonable" is "obviously incapable of precise judicial definition" and that the court affords "great deference" to the Commission's case-specific rate decisions, which are "not bound to any one ratemaking formula." (internal citations omitted)).

[60] Approximately 100 CEs across all federal agencies use the word "minor." CATEGORICAL EXCLUSION EXPLORER, https://ce.permitting.innovation.gov/ (last visited July 8, 2026).

[61] For example, CEs exist for "ministerial" decisions, 18 CFR 380.4(a)(1); proposed legislation or rules that do not "substantially" change the effect of an original law or rule being amended, *id.* 308.4(a)(2)(ii); certain pipeline interconnection facilities with no associated "significant" nonjurisdictional facilities, *id.* 380.4(a)(24); abandonment in place of a "minor," "short" natural gas pipeline, *id.* 380.4(a)(28); abandonment by removal of "minor" surface facilities, *id.*; and abandonment of facilities by sale that involves only "minor" ground disturbance, *id.* 380.4(a)(31).

C. Comments Outside the Scope of This Rulemaking

33. Several commenters raise concerns that are beyond the scope of this rulemaking, which is focused solely on the validity of the expanded CE. Nonetheless, the Commission addresses the concerns below.

1. Aspects of Case-Specific NEPA Review

34. Several commenters express concern that the Commission's use of the expanded CE will improperly eliminate various aspects of case-specific NEPA review including: (a) coordinating and consulting with other agencies under the ESA and other statutes and regulations; (b) engaging with stakeholders and tribal, state, and local governments; (c) evaluating reasonable alternatives, especially a dam removal alternative and a no-action alternative; and (d) evaluating safety risks that could arise later.

35. As a threshold matter, American Whitewater and Nature Conservancy state that omitting site-specific NEPA review will fail to provide information necessary for the Commission to make a public interest determination under the FPA about termination or revocation of licenses as well as requirements for decommissioning.[62] American Whitewater notes that the FPA nowhere exempts Commission-initiated terminations and revocations of licenses from environmental review.[63]

36. We disagree. NEPA recognizes that different levels of review are appropriate in different circumstances.[64] When a proposed action fits within an established category of actions that do not normally result in a significant impact to the human environment, the

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[62] Am. Whitewater March 24, 2026 Comments at 1, 7; Nature Conservancy Comments at 2.

[63] American Whitewater Comments at 5-6.

[64] *See* 42 U.S.C. 4336.

proposed action is excused from a detailed environmental analysis in the form of an EA or EIS.[65] This well-established approach, which is codified in the statute's text, reflects the fact that the type of documentation and the depth of case-specific analysis is properly tailored to the anticipated scale of the environmental effects.[66] As discussed above and in the Final Substantiation Record, the expanded CE is appropriate for terminations and revocations, which have been consistently shown in previous NEPA reviews to not normally result in a significant impact to the human environment.

37. The Commission ensures that project decommissioning is consistent with the public interest.[67] In exercising that authority, the Commission must reach reasoned decisions based on substantial evidence, but it is not obligated to prepare an EA or EIS if the proposed action is covered by a valid CE. As noted, NEPA recognizes the propriety of using CEs to dispense with the preparation of an EA or EIS in appropriate circumstances. The Commission has a longstanding practice of using CEs, and that practice has not interfered with its ability to discharge its duties under the substantive statutes it administers or under the Administrative Procedure Act. We therefore disagree that applying that approach here will deprive the Commission of information needed to

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[65] 42 U.S.C. 4336(a)(2). The Commission can rely on a valid CE regardless of whether any separate statute also excludes the contemplated action from NEPA review.

[66] *Accord Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752, 767 (2004) (noting NEPA's "inherent" recognition that agencies must "determine whether and to what extent to prepare" an environmental document based on the usefulness of additional analysis to the decisionmaking process).

[67] Decommissioning Policy Statement, 60 FR at 340. *See FPL Energy Maine Hydro, LLC*, 106 FERC ¶ 61,038, at P 20, *reh'g denied*, 107 FERC ¶ 61,120 (2004), *aff'd on other grounds*, *Save our Sebasticook v. FERC,* 431 F.3d 379 (D.C. Cir. 2005) ("[T]he Commission, in acting on a surrender application, applies a broad 'public interest' standard, which is not the same as the public interest/comprehensive development standards applied to licensing proceedings . . . ").

make reasoned and informed decisions in the cases that fall within the expanded CE's scope. The expanded CE for terminations and revocations only addresses whether the Commission must prepare a case-specific EA or EIS, not whether or how the Commission will gather and use case-specific information about potential impacts in its decision under the FPA to terminate or revoke a license and to decommission the project.

a. Coordination with Other Agencies

38. The Nature Conservancy, American Whitewater, and the Hydropower Reform Coalition state that case-specific NEPA review includes coordination with other agencies for consultation and review under the CWA, ESA, National Historic Preservation Act, and other statutes and regulations triggered by the Commission's contemplated action to terminate or revoke the license.[68] The Nature Conservancy assumes that under the expanded CE this cooperation would not occur, thus depriving the Commission of information necessary to inform the Commission's decision about the terms of a termination or revocation order.[69] American Whitewater and the Hydropower Reform Coalition contend that other federal and state agencies rely on the Commission-prepared EA in other proceedings and that the expanded CE will deprive those agencies of the information necessary to fulfill their statutory and regulatory requirements. They claim that this creates a risk of regulatory gaps and inefficiencies, possibly requiring other agencies to conduct independent, duplicative environmental review or resulting in other delays.[70]

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[68] Nature Conservancy Comments at 1-2; American Whitewater Comments at 9; Hydropower Reform Coalition Comments at 2.

[69] Nature Conservancy Comments at 1-2.

[70] American Whitewater Comments at 1, 9; Hydropower Reform Coalition

39. These concerns are misplaced. The expanded CE alters only the Commission's responsibilities under NEPA; it does not change the Commission's responsibilities under the ESA, CWA, National Historic Preservation Act, or any other statute applicable to any specific termination or revocation. Although Commission staff typically plan its coordination and consultation with other agencies concurrent with the NEPA process, the Commission can and will coordinate and consult with other agencies outside the structure of NEPA review where a CE applies, just as it does in contexts where its longstanding current CEs are applicable. Those agencies will have the ability to prepare any documentation they feel is necessary to carry out their responsibilities. Concerns about regulatory gaps and inefficiencies are speculative and do not bear on the validity of the expanded CE for a category of actions that do not normally result in a significant impact on the human environment.

b. Engagement by Tribal and State Governments and Other Stakeholders

40. The Nature Conservancy states that case-specific NEPA review is one of the principal avenues for stakeholder input on decisions about dilapidated infrastructure. It is concerned that the expanded CE would jeopardize input from the public and from subject matter experts.[71] The Nature Conservancy contends that case-specific NEPA review is also the primary forum for tribal and state engagement during Commission decision-making, so the expanded CE will limit tribal and state engagement just when

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Comments at 2.

[71] Nature Conservancy Comments at 2.

responsibility for the facilities shifts to them.[72] New York Rivers United encourages the Commission to maintain clear public notice procedures for termination or revocation proceedings, even where the expanded CE is applied.[73]

41. We disagree that the expanded CE will limit engagement. The Commission provides notice to stakeholders in advance of all terminations or revocations, with an opportunity to intervene, comment, and protest. This notice is served on all known tribal, federal, state, and local entities with an interest in the project. The notice is also published in the *Federal Register*.[74] Moreover, staff directly engage with the relevant state agency responsible for dam safety prior to Commission action on a termination or revocation. The ultimate decision by the Commission or by Commission staff under delegated authority in an order is a final agency action for which any aggrieved party may seek rehearing and judicial review.

c. Alternatives

42. American Whitewater contends that the expanded CE will preclude any consideration of alternatives to the proposed action, and that this would cause the Commission to fail to discharge both its duties under NEPA and its broader duties of reasoned decision-making.[75] American Whitewater, the Nature Conservancy, and Michigan DNR contend that a NEPA analysis of feasible alternatives should compare the proposed termination leaving facilities in place to a no-action alternative with

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[72] *Id.*

[73] New York Rivers United Comments at 3.

[74] For terminations by implied surrender, the Commission's decision does not become effective until at least 90 days after public notice. 18 CFR 6.4.

[75] American Whitewater Comments at 3.

enforcement to compel dam maintenance and to a dam removal alternative, including enforcement efforts to compel the licensee to remove the dam and restore the site to the conditions that existed before the project rather than conditions that existed at the time the project was licensed.[76] The Hydropower Reform Coalition and Michigan DNR state that the expanded CE will entirely bypass the evaluation of a feasible dam removal alternative, eliminating the opportunity to assess whether this alternative is less harmful.[77]

43. We disagree. The Commission is not obligated to review different scenarios as alternatives if a valid CE applies, because a CE by definition obviates the need for an EA or an EIS and any corresponding alternatives analysis. That is not inconsistent with NEPA; on the contrary, it is precisely what NEPA contemplates in its provisions addressing CEs. Nor is it inconsistent with the Commission's broader duties of reasoned decision-making, which do not mandate a specific approach to whether and how alternative possibilities are evaluated. Moreover, from a practical standpoint, by the time the Commission considers action to terminate or revoke a license, it has typically exhausted other means to coordinate with or compel the licensee to return a project to operation or to comply with license requirements. In implied surrender or revocation proceedings, the Commission typically has determined that the licensee cannot or will not engage in activities such as dam removal.

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[76] American Whitewater Comments at 4; Nature Conservancy Comments at 2.

[77] Hydropower Reform Coalition Comments at 2; Michigan DNR Comments at 2.

d. Safety Risks

44. Michigan DNR states that the Commission should address dam safety concerns prior to license termination or revocation. Noting that some licensees have financial problems or are unresponsive, Michigan DNR contends that if the Commission cannot remedy outstanding issues with a licensee, it must build in safeguards earlier in the process, either by not issuing subsequent licenses, adding conditions to licensing, or limiting transfers where liabilities are not addressed.[78]

45. Michigan DNR states that dams left in place might currently satisfy the expanded CE's limitation to minor ground disturbance and minor changes in reservoir conditions and downstream flows, yet be subject to ongoing aging, potential for misoperation, unresolved maintenance, environmental and recreational impacts, debris accumulation, and elevated risk of failure. Michigan DNR also contends that impoundments, dams, and spillways should not be left to operate outside their design parameters and to deteriorate without appropriate review, enforceable plans for maintenance and operations, and mechanisms to address water management and dam safety.[79] Michigan DNR asserts that efforts are needed to fully evaluate the impacts of an unmaintained dam on environmental resources and how those risks worsen over time.[80]

46. The establishment and use of the expanded CE will not affect the Commission's consideration of dam and public safety concerns. The Commission can and will engage with tribal, state, and local dam safety regulators when the expanded CE applies, and will

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[78] Michigan DNR Comments at 2.

[79] *Id.*

[80] *Id.* at 3.

incorporate dam safety concerns into its decision-making—as it always does, regardless of the level of environmental review under NEPA. When evaluating a project for implied surrender termination or revocation, Commission staff reviews the project compliance history, including dam safety inspection reports and compliance with the recommendations in them, to determine the current conditions at the site. The Commission's dam safety staff evaluates both the present and future safety risks at projects in proceedings where the Commission's regulatory oversight would end.

47. The Substantiation Record supports the conclusion that terminations and revocations, including where safety risks are identified and addressed, with only minor ground disturbance and minor changes in reservoir conditions or downstream flows normally do not significantly affect the quality of the human environment. Even where the Commission applies the expanded CE to forego preparing a case-specific NEPA document, the Commission will fully evaluate safety risks under the FPA, issue a public notice seeking comments on the Commission's proposal to terminate or revoke the license, and coordinate with appropriate tribal, state, or local regulators, before the Commission acts to terminate or revoke a license. Once the project is no longer in the Commission's jurisdiction, tribal, state, or local regulators would have the authority to require owners of project works to maintain and operate those facilities according to applicable regulations as such jurisdiction requires.

2. Restoring the Project Site

48. Addison Lee states that the Commission should require, as part of the termination of a license, that the licensee restore the project site to its original condition.[81]

[81] Addison Lee Comments at 1.

49. This proposal, which does not deal with the merits of the proposed CE, is beyond the scope of this rulemaking. The Commission may, in a given case, require restoration, an action that likely would involve preparation of an EA.

3. Responsibility Transferred to Tribal, State, and Local Regulators

50. The Nature Conservancy and American Whitewater express concern that the expanded CE provides a pathway for the Commission to absolve a subset of licensees from federal responsibilities, instead leaving the risks and obligations of caretaking for hydropower dams to Tribes, States, and local communities.[82] The Nature Conservancy asserts that many Tribes and States lack the capacity and expertise to assume this role.[83] New York Rivers United contends that the Commission should ensure that environmental and safety conditions associated with a project have been adequately evaluated before the transition to tribal, state, local, or private responsibility occurs.[84]

51. There is no indication that the expanded CE will lead to more frequent circumstances where termination or revocation are necessary and projects become the responsibility of Tribes, States, or local communities. Nor do commenters provide any substantial reason to anticipate such an outcome.[85] Thus, concerns about the transition of such responsibility are outside the scope of the issues in this rulemaking. We note,

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[82] Nature Conservancy March 26, 2026 Comments at 1; American Whitewater Comments at 8 (citing the post-revocation failures of the Edenville Dam and Sanford Dam in Michigan in 2020).

[83] Nature Conservancy Comments at 2.

[84] New York Rivers United Comments at 2.

[85] *Cf. infra* at PP 52-56.

however, that Congress anticipated a continuing system of supervision over public aspects of project works that would remain after a license ends and the project is decommissioned.[86] Most States have comprehensive programs in effect governing dams and similar structures in their waters, especially in the areas of dam safety and the environment. The expanded CE does not diminish the Commission's practice of coordinating with the appropriate tribal, state, or local authorities responsible for dam safety.

4. Disincentives and Unintended Outcomes

52. American Whitewater states that the expanded CE is contrary to public policy because a better strategy would be for the Commission to require financial assurances from licensees and to incentivize licensees to develop surrender plans that include engagement with state and federal resource agencies and robust public participation to determine the most appropriate disposition of the project.[87] American Whitewater states that the expanded CE will instead encourage project abandonment rather than license compliance because licensees will find it easier to walk away than pursue voluntary surrender with review of alternatives and potential environmental impacts.[88] The Nature Conservancy states that the expanded CE will absolve dam owners from addressing dilapidated dam conditions or mitigating hazards that might be present at their facility, with a likely result of increased numbers of "orphaned dams" in rivers and streams.[89]

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[86] Decommissioning Policy Statement, 60 FR at 344.

[87] American Whitewater Comments at 1, 9-10. The Commission has a pending rulemaking about financial assurances. Docket No. RM21-9-000.

[88] American Whitewater Comments at 9-10.

[89] Nature Conservancy Comments at 1.

53. We disagree. There is no basis to conclude that applying the expanded CE in the future will interfere with the Commission's exploration of other mechanisms to facilitate orderly maintenance and repair or surrender and decommissioning of hydroelectric projects. The Commission explained in its Decommissioning Policy Statement that it will not generically impose decommissioning funding requirements on licensees. Instead, the Commission will determine on a case-by-case basis at the time of licensing or relicensing whether to impose funding requirements.[90] The Commission also explained in its Decommissioning Policy Statement that multiple concerns must be considered in determining what form of decommissioning is appropriate, and the solutions necessarily will vary from one situation to another.[91]

54. The Commission's future use of the expanded CE will not encourage project abandonment instead of license compliance. The Commission only takes action to revoke or terminate a license after a licensee has knowingly violated a compliance order from the Commission or a licensee has indicated over months or years that it intends to abandon the project. In these proceedings, the Commission has exhausted all means to coordinate with and compel the licensee to comply with its license or to apply for surrender. In cases of revocation, the Commission is exercising an enforcement tool by depriving a licensee of the ability to generate and sell electricity based on the failure to comply with its license. In cases of implied surrender, the Commission's termination ends an authorization that for all practical purposes is no longer in effect. American Whitewater offers no support for its speculation that the Commission's decision whether

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[90] Decommissioning Policy Statement, 60 FR at 340, 346.

[91] *Id.* at 340.

to prepare a NEPA document for certain terminations or revocations would alter licensee behavior or have any meaningful impact on pertinent incentives for licensees. The expanded CE does not absolve dam owners of any responsibility; it only deals with the Commission's NEPA responsibilities.

55. Patriot Hydro, LLC (Patriot Hydro) states that the Commission should include within the expanded CE not only terminations and revocations but also voluntary surrenders that will result in minor or no ground disturbing activity and minor or no changes in reservoir conditions and downstream flows.[92] Without this inclusion, section 380.5 states that an EA will normally be prepared for all voluntary surrenders where project works exist or ground-disturbing activity has occurred. Patriot Hydro asserts that a licensee actively working with the Commission to stay in compliance as it pursues surrender—as contrasted with a licensee who is unresponsive or noncompliant facing termination or revocation—will bear a greater regulatory burden of an EA even though the facts and environmental impact are identical.[93]

56. Commission staff's analysis did not include the numerous environmental documents for previous licensee-initiated surrenders because the focus of this proceeding is to clarify the Commission's compliance with NEPA for Commission-initiated terminations or revocations. Without an expanded analysis, the Substantiation Record does not provide sufficient evidence to determine whether licensee-initiated surrenders with the same limitations on ground-disturbing activity and changes to reservoir conditions and downstream flows constitute a category of actions that "normally does not

[92] Patriot Hydro, LLC Comments at 1.

[93] *Id.* at 1-2.

significantly affect the quality of the human environment."[94] We therefore lack a basis to take the action Patriot Hydro suggests in this rulemaking.

VI. Regulatory Requirements

A. Information Collection Statement

57. The Paperwork Reduction Act[95] requires each federal agency to seek and obtain the Office of Management and Budget's (OMB) approval before undertaking a collection of information (i.e., reporting, recordkeeping, or public disclosure requirements) directed to ten or more persons or contained in a rule of general applicability. OMB regulations require approval of certain information collection requirements contained in final rules published in the *Federal Register*. This final rule does not impose new information collection requirements on any person or entity. The Commission is therefore not required to submit this rule to OMB for review.

B. Environmental Analysis

58. This final rule is procedural in its entirety and therefore does not require preparation of a NEPA analysis. NEPA does not require environmental analysis or documentation when establishing procedural guidance. The determination that establishing a CE does not require NEPA analysis and documentation has been upheld in *Heartwood, Inc. v. U.S. Forest Service*, 230 F.3d 947, 954-55 (7th Cir. 2000).

59. Moreover, this rulemaking falls within the Commission's category of actions for the promulgation of rules that are clarifying, corrective, or procedural, or that do not

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[94] 42 U.S.C. 4336e(1). Although Patriot Hydro assumes equivalence between the normal effects of licensee-initiated surrenders and Commission-initiated terminations or revocations, it does not provide examples or evidence.

[95] 44 U.S.C. 3501-3521.

substantially change the effect of legislation or the regulations being amended.[96] The Commission is adding a CE for certain terminations and revocations of hydropower authorizations. Because the final rule is procedural in nature and falls within this categorical exclusion, preparation of an EA or an EIS is not required. Further, we note that this final rule only changes the default treatment under NEPA of certain terminations and revocations of hydropower authorizations, and such a change would not alter the environmental effects of the Commission's termination orders.

C. Regulatory Flexibility Act

60. The Regulatory Flexibility Act of 1980 (RFA)[97] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and minimize any significant economic impact on a substantial number of small entities.[98] In lieu of preparing a regulatory flexibility analysis, an agency may certify that a proposed rule will not have a significant economic impact on a substantial number of small entities.[99] The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[100] The SBA size standard for hydroelectric power

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[96] 18 CFR 380.4(a)(2)(ii).

[97] 5 U.S.C. 601-612.

[98] *Id.* 603(c).

[99] *Id.* 605(b).

[100] 13 CFR 121.101.

generation is based on the number of employees, including affiliates.[101] Under SBA's size standards, a hydroelectric power generator is small if, including its affiliates, it employs 750 or fewer people.[102]

61. This final rule applies to a number of entities, some of which may be small businesses, who hold a license or exemption from the Commission for a hydropower project. However, the final rule would have no effect on these entities, regardless of their status as a small entity or not, as the rule imposes no action or requirement on those entities. Instead, the rule establishes a new CE, altering the responsibilities and obligations only of the Commission and its staff under NEPA.

62. Accordingly, pursuant to section 605(b) of the RFA, the Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Document Availability

63. In addition to publishing the full text of this document in the *Federal Register*, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (http://www.ferc.gov).

64. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this

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[101] *Id.*

[102] *Id*. 121.201, subsection 221.

document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

65. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

66. Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Information and Regulatory Affairs (OIRA) has determined this regulatory action is not a "significant regulatory action," under section 3(f) of Executive Order 12866, as amended. Accordingly, OIRA has not reviewed this regulatory action for compliance with the analytical requirements of Executive Order 12866.

VII. Effective Date and Congressional Notification

67. This regulation is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a "major rule" as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of subjects in 18 CFR Part 380

Environmental impact statements, Reporting and recordkeeping requirements.

By direction of the Commission.

Issued July 16, 2026.

Carlos D. Clay,

Deputy Secretary.

In consideration of the foregoing, the Commission amends part 380, chapter I, title 18, Code of Federal Regulations, as follows:

PART 380—REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

1. The authority for part 380 continues to read as follows:

Authority: 42 U.S.C. 4321-4370h, 7101-7352; E.O. 12009, 3 CFR 1978 Comp., p. 142.

2. Revise § 380.4(a)(13) to read as follows:

§ 380.4 Projects or actions categorically excluded.

(a) * * *

(13) Certain amendments, surrenders, terminations, and revocations of preliminary permits and water power licenses and exemptions:

(i) Amendments or surrenders of preliminary permits;

(ii) Amendments to water power licenses and exemptions that do not require ground disturbing activity or changes to project works or operation;

(iii) Surrenders of water power licenses and exemptions where no project works exist or ground disturbing activity has occurred; or

(iv) Terminations or revocations of water power licenses and exemptions that will result in minor or no ground disturbing activity and minor or no changes in reservoir conditions and downstream flows;

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[FR Doc. 2026-14878 Filed: 7/22/2026 8:45 am; Publication Date: 7/23/2026]