

## Department of the Interior Departmental Manual

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**Effective Date:**

**Series:** Environmental Quality Programs

**Part 516:** National Environmental Policy Act of 1969

**Chapter 14:** Managing the NEPA Process--Bureau of Reclamation

**Originating Office:** Bureau of Reclamation

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### 516 DM 14

14.1 **Purpose.** This Chapter provides supplementary requirements for implementing provisions of 43 CFR Part 46 and 516 DM 1 through 4 within the Bureau of Reclamation (Bureau/Reclamation).

#### 14.2 **National Environmental Policy Act (NEPA) Responsibilities.**

A. Commissioner. The Commissioner is responsible for NEPA compliance for the Bureau's activities.

B. Deputy Commissioners are responsible for:

(1) Supervising and coordinating their assigned areas of responsibility to ensure that environmental concerns are identified in the planning stages and that Regional Directors follow through with environmental commitments during construction, operation, and maintenance stages.

(2) Designating, when needed, a staff position responsible for NEPA oversight and coordination in their assigned areas of responsibility.

C. Regional Directors are responsible for:

(1) Integrating the NEPA compliance activities in their regional area.

(2) Designating a staff position with full responsibility to the Regional Director for providing direction of the NEPA process including information, guidance, training, advice, consistency, quality, adequacy, oversight, and coordination on NEPA documents or matters.

D. Director, Policy and Administration is responsible for overall policy review of Reclamation's NEPA compliance.

### 14.3 **Guidance for Applicants.**

#### A. Types of Applicants.

(1) Actions that are initiated by private or non-Federal entities through applications include the following: repayment contracts, water service contracts, Small Reclamation Projects Act loans, Emergency Fund Act loans, Rehabilitation and Betterment Act loans, Distribution System Loans Act loans, land use permits, licenses, easements, crossing agreements, permits for removal of sand and gravel, renewal of grazing, recreation management, or cabin site leases.

(2) The regional office will provide applicants with information on what environmental reports, analysis, or other information is needed when the application is submitted. The environmental information requested may be related to impacts on private lands or other lands not under the jurisdiction of the Bureau to allow the Bureau to meet its environmental responsibilities.

#### B. Prepared Program Guidance for Applicants.

(1) Loans under the Small Reclamation Projects Act of 1958, U.S. Department of the Interior, Bureau of Reclamation, March 1976 (35 pages).

(2) Guidelines for Preparing Applications for Loans and Grants under the Small Reclamation Projects Act, Public Law 84-984, U.S. Department of the Interior, Bureau of Reclamation, December 1973 (121 pages).

(3) The Rehabilitation and Betterment Program, U.S. Department of the Interior, Bureau of Reclamation, September 1978 (14 pages).

(4) Guidelines for Preparation of Reports to Support Proposed Rehabilitation and Betterment Programs, U.S. Department of the Interior, Bureau of Reclamation, September 1978 (8 pages).

### 14.4 **Major Actions Normally Requiring an Environmental Impact Statement (EIS).**

A. The following types of Reclamation proposals will normally require preparation of an EIS:

(1) Proposed Feasibility Reports on water resources projects.

(2) Proposed Definite Plan Reports on water resources projects if not covered by an EIS at the feasibility report stage or if there have been major changes in the project plan which may cause significantly different or additional new impacts.

(3) Proposed repayment contracts and water service contracts or amendments thereof or supplements thereto, for irrigation, municipal, domestic, or industrial water where NEPA compliance has not already been accomplished.

(4) Proposed modifications to existing projects or proposed changes in the programmed operation of an existing project that may cause a significant new impact.

(5) Proposed initiation of construction of a project or major unit thereof, if not already covered by an EIS, or if significant new impacts are anticipated.

(6) Proposed major research projects where there may be significant impacts resulting from experimentation or other such research activities.

B. If, for any of the proposals it is initially decided not to prepare an EIS, an Environmental Assessment will be prepared and handled in accordance with Section 40 CFR § 1501.4(e)(2).

**14.5 Categorical Exclusions.** In addition to the actions listed in the Departmental categorical exclusions specified in 43 CFR § 46.210, many of which the Bureau also performs, the following Bureau actions are designated categorical exclusions unless one or more of the extraordinary circumstances listed at 43 CFR § 46.215 applies:

A. General Activities.

(1) Changes in regulations or policy directives and legislative proposals where the impacts are limited to economic and/or social effects.

(2) Training activities of enrollees assigned to the various youth programs. Such training may include minor construction activities for other entities.

(3) Research activities, such as nondestructive data collection and analysis, monitoring, modeling, laboratory testing, calibration, and testing of instruments or procedures and nonmanipulative field studies.

B. Planning Activities.

(1) Routine planning investigation activities where the impacts are expected to be localized, such as land classification surveys, topographic surveys, archeological surveys, wildlife studies, economic studies, social studies, and other study activity during any planning, preconstruction, construction, or operation and maintenance phases.

(2) Special, status, concluding, or other planning reports that do not contain recommendations for action, but may or may not recommend further study.

(3) Data collection studies that involve test excavations for cultural resources investigations or test pitting, drilling, or seismic investigations for geologic exploration purposes where the impacts will be localized.

C. Project Implementation Activities.

(1) Classification and certification of irrigable lands.

(2) Minor acquisition of land and rights-of-way or easements.

(3) Minor construction activities associated with authorized projects which correct unsatisfactory environmental conditions, or which merely augment or supplement, or are enclosed within existing facilities.

(4) Approval of land management plans where implementation will only result in minor construction activities and resultant increased operation and maintenance activities.

D. Operation and Maintenance Activities.

(1) Maintenance, rehabilitation, and replacement of existing facilities which may involve a minor change in size, location, and/or operation.

(2) Transfer of the operation and maintenance of Federal facilities to water districts, recreation agencies, fish and wildlife agencies, or other entities where the anticipated operation and maintenance activities are agreed to in a contract or a memorandum of agreement, follow approved Reclamation policy, and no major change in operation and maintenance is anticipated.

(3) Administration and implementation of project repayment and water service contracts, including approval of organizational or other administrative changes in contracting entities brought about by inclusion or exclusion of lands in these contracts.

(4) Approval, execution, administration, and implementation of water-related contracts and contract renewals, amendments, supplements, and assignments, and water transfers, exchanges, and replacements, for which one or more of the following apply: (a) for minor amounts of long-term water use, where the action does not lead to long-term changes and impacts are expected to be minor and localized; (b) for temporary (limited to 1 year or less) or interim (limited to 10 years or less) water use where the action does not lead to long-term changes and where the impacts are expected to be minor and localized; or (c) where the only result will be to implement an administrative or financial practice or change. A "water-related" contract is any legally binding agreement to which Reclamation becomes a party, pursuant to its authority under Federal law that (1) makes water available from or to the United States; (2) allows water to be stored, removed, introduced, conveyed, carried, or delivered in facilities Reclamation owns, manages, operates, or funds; or (3) establishes operation, maintenance, and replacement responsibilities for such facilities.

(5) Approval of changes in pumping power and water rates charged contractors by the Bureau for project water service or power.

(6) Execution and administration of recordable contracts for disposal of excess lands.

(7) Withdrawal, termination, modification, or revocation where the land would be opened to discretionary land laws and where such future discretionary actions would be subject to the NEPA process, and disposal and sale of acquired lands where no major change in usage is anticipated.

(8) Issuance or renewal of use authorizations (as defined in 43 CFR 429.2, including crossing agreements which provide rights-of-way) that authorize use of Reclamation land, facilities, or waterbodies where one or more of the following apply: (a) impacts of the action are expected to be minor and localized; (b) the action does not lead to a major public or private action; (c) the only result of the authorization will be to implement an administrative or financial practice or change; or (d) the level of use or impacts to resources is not increased.

(9) Issuance of permits for removal of gravel or sand by an established process from existing quarries.

(10) Reserved.

(11) Implementation of improved appearance and soil and moisture conservation programs where the impacts are localized.

(12) Conduct of programs of demonstration, educational, and technical assistance to water user organizations for improvement of project and on-farm irrigation water use and management.

(13) Follow-on actions such as access agreements, contractual arrangements, and operational procedures for hydropower facilities which are on or appurtenant to Bureau facilities or lands which are permitted or licensed by the Federal Energy Regulatory Commission (FERC), when FERC has accomplished compliance with NEPA (including actions to be taken by the Bureau) and when the Bureau's environmental concerns have been accommodated in accordance with the Bureau/FERC Memorandum of Understanding of June 22, 1981.

(14) Reserved.

(15) Approval of second party water sales agreements for small amounts of water (usually less than 10 acre-feet) where the Bureau has an existing water sales contract in effect.

(16) Approval and execution of contracts requiring the repayment of funds furnished or expended on behalf of an entity pursuant to the Emergency Fund Act of June 26, 1948 (43 U.S.C. 502), where the action taken is limited to the original location of the damaged

facility.

(17) Minor safety of dam construction activities where the work is confined to the dam, abutment areas, or appurtenant features, and where no major change in reservoir or downstream operation is anticipated as a result of the construction activities.

E. Grant and Loan Activities.

(1) Financial assistance, cooperative agreements, grants, loans, contracts, or other funding, where (a) the underlying action being funded would be covered by another Reclamation CE if Reclamation were implementing the action itself, or (b) the action is confined to areas already impacted by farming or development activities and the impacts are expected to be minor and localized.

(2) Reserved.

(3) Reserved.

F. Title Transfer Activities. Transfer from Federal ownership of facilities and/or interest in lands to a qualifying entity where there are no competing demands for use of the facilities; where the facilities are not hydrologically integrated; where, at the time of transfer, there would be no planned change in land or water use, or in operation, or maintenance of the facilities; and where the transfer would be consistent with the Secretary's responsibilities, including but not limited to existing contracts or agreements, the protection of land resources and water rights held in trust for Federally recognized Indian tribes and Indian individuals, and ensuring compliance with international treaties and interstate compacts.

**14.6 Categorical Exclusions Adopted Through NEPA Section 109.** Responsible Officials will document reliance on the categorical exclusions listed below, including describing how the proposed action conforms to the terms of the categorical exclusion relied upon and application of extraordinary circumstances review consistent with 43 CFR 46.215, unless otherwise noted.

A. Project Implementation Activities.

(1) Restoration of noncontroversial native species into suitable habitats within their historic range and elimination of exotic species. (89 FR 101040)