

August 4, 2025

U.S. Department of the Interior
Stephen G. Tryon
Office of Environmental Policy and Compliance
1849 C Street NW
MS 5020
Washington, D.C. 20240

Submitted electronically via: <https://www.regulations.gov>

RE: U.S. Department of the Interior: NEPA Implementing Regulations—Docket No. DOI-2025-0004

Dear Director Tryon:

The Association of California Water Agencies (ACWA) respectfully submits comments regarding the U.S. Department of the Interior's (DOI) interim final rule to modify regulations implementing the National Environmental Policy Act (NEPA).¹ ACWA supports DOI efforts to develop a coordinated, consistent, predictable, and timely NEPA processes, but encourages DOI to do so in a manner that meets the nation's water management needs.

ACWA is the largest statewide coalition of public water agencies in the country. ACWA's more than 470 member agencies are responsible for delivering about 90 percent of the water to communities, farms, and businesses in California. ACWA represents water management entities in every sector of water supply, including municipal and agricultural water, water recycling, water reuse, wastewater management, and stormwater management. For more than a century, ACWA and its members have been working to provide high-quality, reliable water supplies in an environmentally sustainable and fiscally responsible manner.

DOI operations are important to ACWA members and millions of California water users. The Bureau of Reclamation (Reclamation), a federal agency under DOI, is the largest wholesale water supplier in the nation. It is a vital partner for ACWA members. Reclamation infrastructure in California includes 12 hydropower plants, 19 Reclamation projects, 45 dams, and thousands of miles of conveyance features. This infrastructure is necessary to aid in the supply and delivery of millions of acre-feet of water to tens of millions of Californians. DOI also oversees the U.S. Fish and Wildlife Service (USFWS). USFWS operations often directly affect the operation of water supply projects ACWA members rely on. In addition, DOI manages more than 22.7 million acres of land in California.² Operations of DOI and its subagencies are critical for hydropower

¹ *National Environmental Policy Act Implementing Regulations*, 90 Fed. Reg. 29498 (July 3, 2025). <https://www.govinfo.gov/content/pkg/FR-2025-07-03/pdf/2025-12433.pdf>.

² "Federal Land Ownership: Overview and Data." *Congress.gov*, Library of Congress, 30 July 2025, <https://www.congress.gov/crs-product/R42346>.

generation, water storage, conveyance, and delivery of water for communities, farms, businesses, and ecosystems.

I. Introduction

NEPA requires federal agencies to assess the environmental impacts of their actions, including those related to water resources. These assessments often involve detailed environmental impact statements (EIS) or less comprehensive environmental assessments (EA). Therefore, ACWA member agencies are directly impacted by how DOI NEPA processes are structured and implemented. For example, ACWA member agencies comply with DOI NEPA procedures to help manage water resources, address natural disaster challenges, and restore ecosystems. These initiatives are implemented through projects concerning watershed management, forest health, source water protection, and post-wildfire recovery. These projects pertain especially to DOI activities with the U.S. Bureau of Reclamation, the Bureau of Land Management, and the U.S. Fish and Wildlife Service.

ACWA members support the underlying goals of NEPA. However, the implementation of this well-intentioned statute has evolved over the years, becoming unnecessarily burdensome and creating extraneous regulatory hurdles that hinder water management and increase costs for ACWA member agencies as they develop, operate, and maintain water infrastructure. NEPA should not be a barrier to projects that enhance water supply and quality, ecosystem health, and weather resilience.

ACWA supports DOI efforts to modernize, streamline, and improve its NEPA process, aligned with various federal actions, including executive orders³, regulations⁴, and case law⁵. This can help promote an efficient, consistent, and streamlined NEPA process to better address today's challenges in the context of water management. Ultimately, ACWA urges DOI to ensure its NEPA reforms occur in a manner that promotes clarity, consistency, efficiency, and effectiveness for sound water management practices. ACWA also urges DOI to ensure seamless communication between it and water and power contract holders and project beneficiaries. ACWA's recommendations are discussed below.

II. NEPA Implementation Consistency

Consistent, timely, and science-based environmental reviews are critical for managing water supply, enabling collaborative landscape-scale efforts to address forest health, drought resilience, and post-wildfire water supply protection in California and the western United States. This type of review also helps ACWA members avoid delays, uncertainty, and inequities regarding water and water-related projects. ACWA members have experienced difficulties and delays in project

³ Exec. Order No. 14154: *Unleashing American Energy*, 90 Fed. Reg. 8353 (January 20, 2025). Proposed to rescind CEQ's rulemaking authority under NEPA. <https://www.govinfo.gov/content/pkg/FR-2025-01-29/pdf/2025-01956.pdf>.

⁴ *Removal of National Environmental Policy Act Implementing Regulations*, 90 Fed. Reg. 10610 (February 25, 2025). Repealed CEQ regulations effective April 11, 2025, in response to E.O. 14154 (*Removal of National Environmental Policy Act Implementing Regulations*). <https://www.govinfo.gov/content/pkg/FR-2025-02-25/pdf/2025-03014.pdf>.

⁵ *Seven County Infrastructure Coalition v. Eagle County*. 145 S. Ct. 1497. (May 29, 2025). Narrowed the scope of NEPA reviews for major infrastructure projects, holding that federal agencies are no longer required to consider every possible environmental consequence of a proposed federal action, and agencies only need to analyze environmental impacts for which their decision would impact. https://www.supremecourt.gov/opinions/24pdf/23-975_m648.pdf.

management and development due to a lack of coordination among the multiple federal agencies during the NEPA process. This is common as federal agencies have different NEPA procedures.

ACWA supports DOI revising its NEPA implementation regulations to establish a more efficient and consistent process across DOI's various bureaus and offices. For example, DOI intends to retain and make limited updates to provisions relating to emergency responses, categorical exclusions, and applicant and contractor preparation of environmental documents. Also, ACWA appreciates DOI expressing support for efficient environmental reviews by relying on existing environmental documents "if a proposed action has been adequately evaluated in an earlier environmental impact statement or environmental assessment."⁶ Accordingly, DOI should take all efforts to minimize duplicative federal environmental reviews to support agency-wide efficiency. As outlined in 2020 NEPA regulations, CEQ made changes to ensure regulations "facilitate the use of existing studies, analyses, and environmental documents prepared by States, Tribes, and local government." Yet the NEPA process can be extremely time-consuming. Concurrent NEPA reviews rather than sequential ones improve efficiency and effectiveness, enhance collaboration, and reduce duplicative efforts in the NEPA process. This practice will promote efficiency and reduce duplicative federal agency efforts for water management projects, such as ones pertaining to water quality, wastewater treatment, irrigation, and watershed restoration.

Also, for projects requiring multiple federal agency approvals, DOI should ensure use of the "One Federal Decision" approach for NEPA reviews in accordance with Executive Order 13807 and later enacted under Public Law No. 117-58. ACWA encourages DOI, along with other federal agencies such as the U.S. Department of Agriculture and U.S. Army Corps of Engineers, to participate in integrated NEPA review processes. A single coordinated NEPA document and Record of Decision (ROD) can eliminate sequential reviews and, in turn, expedite permitting for critical infrastructure.

III. Lasting Regulatory Certainty

Consistent NEPA implementation is key to ACWA member agencies' operations. ACWA appreciates DOI publishing agency-specific guidance regarding its new NEPA procedures through its Department of the Interior Handbook: National Environmental Policy Act Implementing Procedures. However, ACWA is concerned that DOI's handbook, and thus its NEPA procedures, could change without notice. Court decisions and recently passed statutes on the scope of NEPA will provide a certain level of certainty for infrastructure development. However, other policy principles like Executive Orders that DOI references can change across administrations. Major water infrastructure projects can take years to design, permit, and build. ACWA members, and others in the regulated community, value regulatory certainty and consistency. We ask DOI to take steps to develop and manage NEPA processes in a manner that will provide functionality, certainty, and consistency across multiple administrations.

⁶ *Department of the Interior Handbook: National Environmental Policy Act Implementing Procedures* (July 2025). <https://www.doi.gov/media/document/doi-nepa-handbook>.

IV. Reasonable Time Frame and Document Length

ACWA supports timely NEPA decisions that align with Executive Order 13807, later enacted under Public Law No. 117-58, which set a goal of completing all Federal environmental reviews and authorization decisions for major infrastructure projects within 2 years in most circumstances.⁷ ACWA supports DOI referencing deadlines of 2 years for EISs and 1 year for EAs in its NEPA implementing regulations.

ACWA supports DOI's adherence to other federal agencies in maintaining page limits for environmental reviews for NEPA. Specifically, page limits for EAs are not to exceed 75 pages and EISs are not to exceed 150 pages, excluding citations or appendices, unless an exception exists, such as extraordinary complexity.

V. Use of Categorical Exclusions

ACWA appreciates DOI's NEPA implementation regulations incorporating Sections 46.205, 46.210, and 46.215 to regarding categorical exclusions. ACWA supports DOI intentions to "retain and make limited updates to provisions relating to categorical exclusions and their use to avoid any instability in these vital procedures or uncertainty about the continued validity of its already-established categorical exclusions." The use of Categorical Exclusions (CEs) has been and will continue to be a critical tool that ACWA member agencies and water managers throughout the West rely on. ACWA encourages DOI to utilize the continued expansion of CEs to expedite projects without significant environmental impacts. Notably, ACWA appreciates the adoption of CEs under NEPA for numerous DOI projects at Reclamation, the Bureau of Land Management, U.S. Fish and Wildlife Service, and U.S. Geological Survey. DOI should continue and expand its use of CEs for these activities, including routine operation and maintenance of water and hydropower infrastructure, habitat restoration measures, natural resource and land management plans, installation of research and monitoring devices, and disaster mitigation and response efforts.

DOI's interim rule eliminated a number of categorical exclusions, including categorical exclusions for hazardous fuels reduction activities using prescribed fire and postfire rehabilitation activities. In P.L.118-5 Congress provided cross-agency authority to adopt a categorical exclusion listed in another agency's NEPA procedures. ACWA asks DOI to ensure that any categorical exclusions it is removing would not inadvertently remove a tool that another agency might use. As an example, a DOI wildfire categorical exclusion developed for the Bureau of Land Management could benefit wildfire management on U.S. Forest Service lands. Or a categorical exclusion developed for low head hydropower development on a Reclamation project could be applied to a project subject to the jurisdiction of the Federal Energy Regulatory Commission.

VI. Reasonably Foreseeable vs Cumulative Effects

ACWA supports the consideration of "reasonably foreseeable effects" of a potential action rather than the consideration of "cumulative effects." The rule restores the 2020 NEPA requirement that federal agencies consider the "reasonably foreseeable effects" of a potential action instead of the

⁷ National Environmental Policy Act Section 107(g), 42 U.S.C. 4336(g). Public Law 91-190 (as amended through Pub. L. 119-21, July 4, 2025). <https://www.govinfo.gov/content/pkg/COMPS-10352/pdf/COMPS-10352.pdf>.

overly broad standard of “cumulative effects.” When an ACWA member embarks on a water management project they can manage the potential impacts of that specific project. They cannot address the impacts of their project in addition to the cumulative effects of other past, present, and future projects.

VII. Water and Power Provider Engagement

DOI will manage its NEPA efforts on a model similar to its practices in place until 2008. Focusing on publishing NEPA policies as part of its Department Manual. DOI has confirmed that it will follow Congress’s direction from P.L.118-5 to provide public notice and solicitation of comment when issuing a notice of intent to prepare an EIS. ACWA supports public notice and comment opportunities.

ACWA requests that DOI take steps to ensure that interested parties such as water and power contract holders are informed about potential changes to the DOI Department Manual that could affect them but might not rise to the level of an EIS being developed. There is precedent for this type of engagement. Reclamation manages the Reclamation Manual which consists of a series of policy and directives and standards which set agency wide responsibilities and methods of conducting business. Interested parties, including contract holders, and others can ask to receive notification about additions or changes to the Reclamation Manual and directions on how to provide comments. We ask DOI to develop a similar portal so water providers can stay abreast of potential changes to the DOI Department Manual that could affect them.

VIII. Workforce

ACWA recognizes the importance of efficient federal operations. A capable DOI workforce is necessary for effective NEPA implementation. ACWA members and others in the regulated community must comply with NEPA, and we request that DOI ensure that there are sufficient staff to process NEPA documents in a timely manner. We ask DOI to contact the Office of Management and Budget and request an exemption from the federal hiring freeze for the Bureau of Reclamation. We also ask DOI to seek direct hire authority for the Bureau of Reclamation so it can fill positions that are critical to water and power operations.

IX. Comment Period Extension

ACWA appreciates DOI providing an opportunity to comment on its interim final rule regarding NEPA. Due to the technical nature of this interim final rule and its large-scale implications on water resources nationwide, ACWA encourages DOI to extend this comment period by at least an additional 30 days. Extending the comment period to a minimum of 60 days will allow DOI to consider adequate responses from more impacted parties.

The current 30-day timeframe is challenging for many small water utilities—including some ACWA member agencies—who may lack the resources to develop sufficient comments within the imposed deadline. Nevertheless, those directly affected by NEPA activities under DOI jurisdiction have important real-world information to share that this short timeframe will likely hinder.

X. Future Rule Making

DOI issued an interim NEPA final rule under the Administrative Procedure Act, which takes immediate effect upon publication, as opposed to proceeding with a standard rulemaking process.⁸ Despite the ability to subsequently comment on DOI's interim final rule, interested and impacted parties were not provided an opportunity to weigh in on the regulation prior to its development. Water managers, like ACWA members, have direct experience in implementing NEPA. A standard rulemaking process could have provided additional opportunities to improve the NEPA process. ACWA respectfully requests that future rulemakings be made in a manner that allows for full engagement of water providers.

XI. Conclusion

ACWA thanks DOI for its efforts to develop an efficient and effective NEPA process. Please let us know if there are further opportunities for ACWA to collaborate on NEPA efforts or if we can provide additional information and resources. If you have any questions or would like to follow up on this matter, please contact ACWA Federal Relations Representative, Caleb Raspler, at calebr@acwa.com or (202) 434 - 4762.

Respectfully,

A handwritten signature in black ink, appearing to read "Caleb Raspler", is written over a horizontal line.

Caleb Raspler
Federal Relations Representative
Association of California Water Agencies

⁸ Administrative Procedure Act, 5 U.S.C. § 553.
<https://uscode.house.gov/view.xhtml?path=/prelim@title5/part1/chapter5/subchapter2&edition=prelim>.