

**OAR CHAPTER 333**  
**DIVISION 061**  
**PUBLIC WATER SYSTEMS**  
**Effective 10-21-04**

**333-061-0063 Environmental Review Process for The Safe Drinking Water Revolving Loan Fund Program**

- (1) Overview:
  - (a) These rules provide for environmental review of actions that are funded through the Safe Drinking Water Revolving Loan Fund (SDWRLF). These rules are to be applied in a manner that is consistent with 40 CFR Part 6, Subpart E and related subparts (July 1, 1997). An applicant for funding from the SDWRLF shall consult with the Department at an early stage in the preparation of an application to determine the required level of environmental review. Based on review of existing information, the Department shall assess the potential environmental effects of the proposed action and shall instruct the applicant either to:
    - (A) Submit a request for a categorical exclusion in a format specified by the Department;
    - (B) Prepare and submit an environmental information document (EID) in a format specified by the Department; or
    - (C) Prepare and submit an environmental impact report (EIR) in a format specified by the Department.
- (2) Categorical exclusions:
  - (a) Categorical exclusions are categories of actions proposed for funding from the SDWRLF, which do not individually, cumulatively over time, or in conjunction with other actions, have a significant effect on the quality of the human environment, and have been identified by the Department as having no such effect. Such actions may be excluded by the Department from further environmental review requirements if the information provided by the water supplier and any additional information before the Department does not identify any environmental effects of the action that warrant additional environmental review by the Department. The following actions may be categorically excluded by the Department:
    - (A) Actions solely directed toward minor rehabilitation of existing facilities, functional replacement of equipment, or toward the construction of new ancillary facilities adjacent or appurtenant to existing facilities;
    - (B) Actions in sewered communities with a population of 10,000, or less, which are for minor upgrading or minor expansion of existing drinking water systems. This category does not include actions that directly or indirectly involve new drinking

water sources, or the extension of new water distribution systems;

- (C) Actions in unsewered communities with a population of 10,000 or less, that do not include the development of new drinking water sources, and that will not result in any increase in or change to the rate, nature or location of water diversion or discharge to surface water.
- (b) In addition to the criteria set forth in subsection (a) of this rule, categorical exclusions will not be granted if the proposed action meets the criteria for not granting such exclusions in 40 CFR 6.107(e) and/or 6.505(c) (July 1, 1997). In addition, in order to qualify for a categorical exclusion, the action must be compatible with applicable acknowledged comprehensive plans and land use regulations, which must be documented according to the requirements of OAR 333-061-0062(5) and (7).
- (c) A categorical exclusion may be revoked by the Department and an environmental review required if the proposed action no longer meets the requirements for a categorical exclusion due to changes in the proposed action, or if the Department determines from new information that significant environmental effects may result from the proposed action.
- (d) If a categorical exclusion is granted, and a notice of the exclusion has been published in a newspaper of general circulation in the geographical area of the proposed action, the action can proceed.
- (3) Environmental review process:
  - (a) When issuance of a categorical exclusion is not appropriate, the applicant shall prepare an EID or an EIR, as required by the Department. The EID or EIR shall consider practicable alternatives to the proposed action (including a no-action alternative), as well as the proposed action.
  - (b) The EIR or EID shall contain an evaluation of applicable laws relating to significant environmental resources that may be affected by the proposed action and alternatives to the proposed action. The applicant shall consult with appropriate federal, state and local agencies regarding such laws.
  - (c) The EIR or EID shall consider a full range of relevant impacts (both direct and indirect, and current and future impacts) of the proposed action and alternatives to the proposed action, including measures to mitigate adverse impacts, cumulative impacts, and impacts that cause irreversible or irretrievable commitment of resources.
  - (d) If the Department requires an EID, the applicant shall prepare and the Department shall review a draft EID. Following its review, the Department shall either request additional information regarding potential impacts of the proposed action, or shall accept the EID as

final. Once the Department accepts the EID, the Department shall prepare an environment assessment (EA) of the proposed action based on the EID and any other supplemental information deemed necessary by the Department. Based on the EA and any measures to mitigate or eliminate adverse effects of the proposed action on the environment (which measures shall be included as a condition of any loan award as set forth in section (4) of this rule), the Department will either prepare and issue a Finding of No Significant Impact (FNSI) or require the preparation of an EIR under subsection (3)(e) of this rule. In determining whether to issue a FNSI, the Department shall apply the criteria set forth in 40 CFR §§ 6.509, 6.108(a) and 6.108(c through g) (July 1, 1997). If the Department determines to issue a FNSI, notice of the FNSI shall be published in a newspaper of general circulation in the geographical area of the proposed action. Following a period of at least thirty (30) days after publication of the notice, and after any public concerns about the impacts of the proposed action are resolved to the extent determined to be appropriate by the Department, the Department may issue a final FNSI, and the action can proceed.

- (e) If the Department requires an EIR:
  - (A) The applicant shall conduct a duly noticed public meeting regarding the proposed action, which may be combined with other public hearings or meetings regarding the proposed action;
  - (B) The applicant shall prepare and submit a draft EIR to all interested agencies and persons, for review and comment;
  - (C) The applicant shall prepare and submit a final EIR that responds to agency and public comments for Department review and decision;
  - (D) The Department, following its review of the EIR, shall determine whether the action may proceed. In the event the Department determines the action may proceed following completion of an EIR, it shall specify in writing what mitigation measures, if any, are to be required.
- (4) In the event the Department determines the action may proceed following preparation of an EID or an EIR, the Department shall ensure that mitigation measures identified in its review as required for the issuance of a FNSI or otherwise, are implemented. This may be done by incorporating such measures as conditions of any loan agreement, or otherwise as the Department determines will best ensure their completion in a timely manner.
- (5) Under appropriate circumstances, the Department may allow the partitioning of environmental review such that the environmental review will be required for only a component/portion of a planned system instead of completing an environmental review for the remainder of the system(s). In determining

whether to approve partitioning of environmental review, the Department shall consider 40 CFR Section 6.507 (July 1, 1997).

- (6) Waiver; validity:
  - (a) If environmental review for the proposed action has already been conducted by another government agency, the Department may, in its discretion, waive the requirements of this rule.
  - (b) Environmental reviews may be valid for up to five (5) years. If a loan application is received for an action with an environmental review that is more than five (5) years old, the Department shall require a new or supplemental environmental review in accordance with these rules.