



ENVIRONMENTAL REVIEW PROCESS
HANDBOOK

for

Drinking Water State Revolving Loan Fund

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**OREGON DEPARTMENT OF HUMAN SERVICES
DRINKING WATER PROGRAM**

ENVIRONMENTAL REVIEW PROCESS HANDBOOK

Revised: October 2008

A. INTRODUCTION

This handbook is the reference manual of policies and procedures for the Oregon Department of Human Services Drinking Water Program (the Department) review of environmental impacts created by the construction of drinking water facilities funded wholly or in part by the Drinking Water State Revolving Fund (DWSRF)

B. DEFINITION OF TERMS

1. “**Applicant**” means any community water system or other public water system eligible for funding from the DWSRF that has submitted an application for a DWSRF loan.
2. “**Categorical exclusion**” means a category of actions proposed for funding from the DWSRF, 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 so that neither an environmental information document or environmental impact report is required.
3. “**Cumulative impact**” is the impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.
4. “**Direct impact**” is an effect that is caused by an action that occurs at the same time and location of the action.
5. “**Environmental assessment (EA)**” is a document prepared by the Department which contains the determination of either requiring the preparation of the environmental impact report or issuing a Finding of No Significant Impact.
6. “**Environmental information document (EID)**” means any written environmental document prepared by an applicant describing the environmental impacts of a proposed drinking water construction project to be funded in whole or in part by the DWSRF. This document shall meet the minimum requirements of scope as stated in OAR 333-061-0063 (3)(a) through (c) The document shall be used by the Department to prepare an

environmental assessment to determine if an environmental impact report is required or if a Finding of No Significant Impact statement can be issued.

7. “**Environmental impact report (EIR)**” means a detailed written statement prepared for review by the Department according to Section F, Items 4 & 5 of this Environmental Review Process Handbook.
8. “**Environmental review**” means the overall process undertaken by the Department for each one of the DWSRF projects to determine whether a proposed project may have a significant impact(s) on the environment. The Environmental Review process is described in detail by this Handbook.
9. “**Finding of No Significant Impact (FNSI)**” is a brief document or statement prepared by the Department acknowledging that the project, which does not qualify for a categorical exclusion or cannot be waived from further review due to a previous review by another governmental agency, will have no significant impact on the human environment. If the Department issues a FNSI, no EIR is required by the applicant.
10. “**Human environment**” shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment (e.g. any direct or indirect impacts as defined by this section) It is understood that economic or social impacts are not intended to solely require the preparation of an EIR. When an EIR is prepared and the economic and social impacts are interrelated, then the EIR shall discuss all of these impacts on the human environment.
11. “**Indirect impact**” is an effect that is caused by an action that occurs later in time but still within the reasonably foreseeable future. Indirect effects may include growth-inducing effects or other effects related to land use pattern changes, population density or growth rate.
12. “**Mitigation measures**” are conditions derived from the EIR and placed on the loan by the Department to minimize the adverse impacts of the selected project alternatives. Some examples of mitigation measures include but are not limited to the following:
 - Avoiding the impact altogether by not taking a certain action or parts of an action.
 - Limiting the degree or magnitude of the action and/or its implementation.
 - Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
 - Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the project or action.
 - Compensating for the impact by replacing or providing substitute resources or environments.

13. “**Record of decision (ROD)**” means a document prepared and issued by the Division in response to an EIR prepared and submitted by an applicant for a DWSRF project. The ROD will either accept the EIR with possible mitigation measures (which would allow the project to proceed) or reject the EIR (which would effectively terminate the project)
14. “**Scope**” is the range of actions, alternatives, and impacts to be considered in the EIR. The scope of the EIR will vary for each project depending on its relationship to other environmental statements.

C. ENVIRONMENTAL REVIEW PROCESS OVERVIEW

In general, the Department’s review process for DWSRF construction projects is as follows:

1. ***Capacity Assessment Review.*** The Department will conduct a Capacity Assessment Review when a completed application is submitted to the Oregon Economic Development Department. During the review, the Applicant should receive the Environmental Review Process Handbook. As a part of the Capacity Assessment, the Department will briefly review with the Applicant several forms that will aid the Applicant in the review process such as the Environmental Review Process Handbook. The Handbook, with all the supporting documents, is also available on the Department’s web page.
2. ***Categorical Exclusion Determination.*** At the request of the Applicant, the Department will determine if the proposed project can be categorically excluded from further environmental review. The Applicant must submit a written request to the Department for a categorical exclusion to initiate the determination process. The Department may be able to determine the eligibility of the project for categorical exclusion from existing information and documentation, or the Department may request additional engineering reports or assessments before making the determination.
3. ***Receive Environmental Information.*** If the project is determined by the Department to be ineligible for a categorical exclusion, or the project has not had an environmental review by another government agency, or no request for a categorical exclusion is made by the Applicant, the Applicant must prepare an EID to submit to the Department for review. The EID can be included in the engineering report from the Applicant as either a separate section or appendix.
4. ***Review Environmental Information.*** The Department will review the submitted EID and may require the Applicant to amend the EID with additional information before the Department can prepare an EA. Following

the review, the Department shall prepare an EA in which the Department will either:

- (a) Issue a FNSI for the submitted EID (which can be amended); or
 - (b) Require the Applicant to prepare an EIR and issue a ROD in response to the completed EIR.
5. ***Monitor Project and Mitigated Issues from Review.*** If there are conditions that need to be placed onto the EID as part of the FNSI determination or mitigation measures associated with EIR as part of the ROD, the Department will monitor and require written verification from the Applicant that those conditions or mitigation measures are being achieved as part of the completion of the project.

D. CATEGORICAL EXCLUSIONS

1. At the request of the Applicant, the Department shall determine from existing information and documentation whether the proposed project is eligible for Categorical Exclusion from further environmental review according to the criteria specified in OAR 333-061-0063 (2)(a)
2. Any projects or actions consistent with any of the following categories are eligible for a categorical exclusion:
 - (a) Actions which are 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 sewerred communities with a population of 10,000 persons 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 unsewerred communities with a population of 10,000 persons 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.
3. Categorical Exclusions will not be granted for proposed projects or actions that include impacts that meet any of the following criteria:
 - (a) Creation of a new or relocation of an existing discharge to surface or groundwater;
 - (b) Discharge volume or pollutant loading increases from a new or existing source to receiving waters;

- (c) Creation of facilities that would provide capacity to serve a new population 30% greater than the existing population;
 - (d) Formation of significant effects on the quality of the human environment either individually or cumulatively over time;
 - (e) Creation of direct or indirect impacts to cultural resource areas (such as archeological and historic sites), endangered or threatened species and their critical habitats, environmentally important natural resource areas (such as floodplains, wetlands, important farmlands, or aquifer recharge zones), or other identified resource areas.
 - (f) Creation of significant public controversy or project is found not to be cost-effective.
4. If the Department grants a Categorical Exclusion for a project or action, the Applicant will publish a Notice of Exclusion in a local newspaper(s) of general circulation (as determined by the Applicant) in the geographic area of the proposed project or action. A copy of the Notice as it appears in publication or an affidavit of the publication from the newspaper must be sent to the Department. After publication of the Notice, the project may proceed.
 5. If the Categorical Exclusion is denied by the Department, and no other governmental agency has performed an environmental review on the proposed project or action, the Applicant must submit an EID for review by the Department. The EID must meet the requirements of OAR 333-061-0063 (3) (a) through (d), and the content of the EID is described here in Section E.

E. RECEIVING ENVIRONMENTAL INFORMATION

1. If another government agency has already conducted an environmental review of the proposed project or action, the Department may, in its discretion, waive the requirements of OAR 333-061-0063 for the Applicant from further environmental review. For the Department to grant such a waiver, the Applicant must submit to the Department written documentation (or a copy of such documentation) from the government agency conducting the review that the review conducted by this agency is consistent with the requirements of 40 CFR Part 6, Subpart E as well as a copy of the Environmental Assessment (EA) or the Record of Decision (ROD) letter. The Applicant must also submit to the Department a copy of the Notice of the above decision as it appears in the local newspaper or an affidavit of the publication from the newspaper.
2. When submission of an EID is required for a proposed project or action, the EID shall consider any practicable alternatives to the proposed project or

action (including the “no-action” alternative), as well as the proposed project or action. The Applicant shall also consult with appropriate federal, state, and local agencies regarding any laws that are applicable to significant impacts to the human environment.

3. ***EID Content.*** The EID shall cover all potentially significant impacts on the human environment. Each of the following subjects and requirements shall be included in the EID so that the Department may objectively evaluate the potential impacts:
 - (a) ***Cover Sheet.*** The cover sheet should clearly identify the proposed project or action.
 - (b) ***Purpose and Need.*** This section should include a summary discussion of the need for the drinking water project or action in the identified planning area with particular emphasis on existing public health and its severity and extent.
 - (c) ***Description of the Existing Environment.*** For the delineated facilities planning area, the existing environmental conditions relevant to the analysis of alternatives and to determining the environmental impacts of the proposed project or action shall be considered.
 - (d) ***Environmental Consequences of the Proposed Project or Action.*** The proposed project or action should be evaluated based on the following:
 - (1) Direct, indirect, and cumulative impacts;
 - (2) Physical, legal, or institutional limitations or constraints;
 - (3) Compliance status with regulatory requirements
 - (e) ***Analysis of alternatives.*** The various alternatives that have been considered (including the “no-action” alternative) are discussed in this section. The alternatives should be evaluated based on direct impacts, indirect impacts and cumulative environmental impacts; physical, legal or institutional limitations and constraints; and compliance status with regulatory requirements. Special attention should be given to any long-term, irreversible or project-induced impact resulting from the alternative. This section should include any reason identified for rejecting any alternative as well as any significant environmental impact achieved by the rejection of any alternative.
 - (f) ***Minimizing adverse impacts of the proposed project or action.*** Discussion should be made as to the steps that can be taken to minimize any environmental impact resulting from the proposed project or action. Mitigating measures that would minimize adverse impacts could be structural (such as facility design or location) or

non-structural (such as project staging, monitoring schemes or local land use requirements)

- (g) **Documentation of sources.** The sources of information used to describe the current environmental impacts and the assessment of the future environmental impacts must be referenced. These sources should include local, state, and federal agencies with responsibilities or interests in the environmental impacts.

F. ENVIRONMENTAL REVIEW PROCESS

Once the EID has been completed by the Applicant and submitted to the Department for review, the environmental review process proceeds as follows:

1. **FNSI Determination.** After completing the review of the EID, if the Department issues an EA that concludes completion of an EIR is not required by the Applicant, then the Department will draft the FNSI and distribute the determination to the interested party mailing list obtained during the initial meeting with the Applicant (capacity assessment determination) The FNSI determination must be based on the submitted EID and any other supporting environmental information requested of the Applicant by the Department. The FNSI shall list any mitigation measures or conditions determined from the review process. The FNSI shall be considered valid for 5 years for a given proposed project or action. If the FNSI is older than 5 years, the Department shall reevaluate the proposed project or action, any environmental conditions, and any public views or comments. Following the reevaluation, the Department has the option to either:
 - (a) Reaffirm the Department's earlier decision for the project or action to proceed and issue a new public statement without any revision to the EID; or
 - (b) Require an update to the EID and issue and distribute a new FNSI to the interested persons list; or
 - (c) Retract the FNSI and require the Applicant to prepare an EIR for public input and Department review.
2. **Publishing the FNSI Determination.** Once the Department has issued a FNSI determination, the Applicant must publish this determination in a newspaper of general circulation in the geographical region of the proposed project or action. The Applicant must send to the Department a copy of the notice of this determination as it appears in the newspaper or an affidavit of the publication from the newspaper. Following a period of 30 days after publication of the notice, and after any public concerns about the impacts of the proposed project or action have been resolved to the extent determined

appropriate by the Department, a final FNSI may be issued by the Department, and the project can proceed.

3. **Criteria for Requiring an EIR.** The Department will require an EIR be prepared by the Applicant when it is determined that the proposed project or action may cause one of the following conditions to exist:
 - (a) The project or action may significantly impact the pattern and type of land use (industrial, commercial, agricultural, recreational, or residential) or growth and distribution of population;
 - (b) Any adverse impacts resulting from any structure or facility constructed or operated which may conflict with local, regional, state land use plans or policies, federal law or executive order;
 - (c) Any significant adverse impact on wetlands (either direct, indirect or cumulative);
 - (d) Any significant adverse impact on a species or its habitat identified by an endangered or threatened species lists compiled by the US Department of the Interior, the National Marine Fisheries Service or the State and, or other ecologically sensitive areas;
 - (e) Any direct or indirect impacts that could significantly displace population, alter the character of existing residential areas, adversely impact a floodplain area, or adversely impact significant amounts of important farmland or agricultural operations on the location in question;
 - (f) Any significant impacts on park lands, preserves, wild & scenic rivers, or other public lands of recognized scenic, recreational, historic or archaeological value;
 - (g) Any significant direct, indirect or cumulative impacts to cultural, historical or archaeological resources;
 - (h) Any significant impacts induced through development upon local ambient air quality, local ambient noise levels, surface or groundwater quality and quantity or other water supply conditions;
 - (i) When the proposed project or action is considered highly controversial by general public opinion or may involve uncertain risks.
4. **EIR Preparation Process.** In preparing the EIR, the Applicant (or its contractor if appropriate) will conduct the following activities:
 - (a) **Notice of Intent.** Once the Department has required the Applicant to complete an EIR, the Applicant must prepare and distribute to the Department and the public a Notice of Intent to prepare an EIR. The Notice must include an estimated preparation time schedule.
 - (b) **Scope Determination.** Following the issuance of the Notice of Intent, the Applicant shall convene an open public meeting as soon as

possible of federal, state (including the Department), local agencies and any other impacted group or organization or other interested party to determine the scope of the EIR. During the Scope Determination meeting, the Applicant shall at minimum complete the following tasks:

- (1) Determine the significance of various issues to be analyzed in depth as part of the EIR;
- (2) Identify the preliminary range of alternatives to be considered.
- (3) Identify any potential cooperating agency(s) and determine the information or analyses that may be needed from the cooperating agency(s) or other interested party(s);
- (4) Discuss with those assembled at the meeting the method for the EIR preparation and the strategy to involve public participation;
- (5) Identify consultation requirements of other environmental laws;
- (6) Determine the relationship between the EIR and the completion of the facilities plan and any necessary coordination arrangements between the parties involved in the preparation of both documents.

(c) ***Identifying and Evaluating Alternatives.*** Following the Scope Determination meeting, the Applicant will commence the identification and evaluation of all the potentially viable alternatives to address the scope of issues raised during this process. The documented reasons must be part of the EIR submitted to the Department.

(d) ***EIR Preparation.*** The Applicant shall then prepare a draft EIR and submit it to all impacted agencies and interested parties (including the Department) for public review and comment. The comment period shall remain open for 45 days to review the draft EIR. Notices of the availability of the draft EIR shall be published in major newspapers statewide. Following the 45-day review period, the Applicant shall incorporate all the comments received and prepare a final EIR and submit it to the Department. After reviewing the EIR, the Department will issue the ROD.

5. ***EIR Content.*** The format for the EIR shall encourage good analysis and clear presentation of all the alternatives (including the “no-action” alternative and the proposed alternative) and their environmental, economic, and social impacts. The following standard format for the final EIR should be used unless otherwise requested by the Department:

(a) ***Cover Sheet.***

- (b) ***Executive Summary (ES)*** The ES shall provide in sufficient detail the critical facets of the EIR so that the reader can easily become familiar with the proposed project or action and its related impacts. The ES should include a description of the existing problem, a brief description of each alternative considered with its associated impacts and any other areas of controversy, and a conclusion or recommendation for the proposed project or action.
- (c) ***Table of Contents.***
- (d) ***Purpose and Need for Action.***
- (e) ***Alternatives Evaluated.*** The Applicant must present the environmental impacts of the alternatives in comparative form, thus clearly defining the issues and providing a clear basis for choosing among the options by the Applicant and the public. This section shall include the following:
 - (1) A balanced description of each alternative considered by the Applicant including the proposed project or action so that reviewers may evaluate their comparative merits. These discussions should include size, location of facilities, land requirements, operation & maintenance requirements, and auxiliary structures such as pipelines and construction schedules. For alternatives that were eliminated from the study, a brief discussion of the reason for elimination shall be included;
 - (2) Appropriate mitigation measures not already included in the proposed project or action;
 - (3) Identification of the preferred alternative in the final EIR.
- (f) ***Impacted environment and resulting consequences of the alternatives.*** The impacted environment on which the evaluation of each alternative shall be based includes, for example, hydrology, geology, air quality, noise, biology, socio-economics, energy, land use, archaeology, and historic subjects. The discussion shall be structured so as to present the total impacts of each alternative for easy comparison among all alternatives by the reader. The effects of a □no-action□ alternative should be included to facilitate reader comparison of the beneficial and adverse impacts of other alternatives to the option of doing nothing. A description of the environmental setting shall be included in the “no-action” alternative for the purpose of providing needed background information. The amount of detail in describing the impacted environment shall be commensurate with the complexity of the situation and the importance of the anticipated

impacts. There must also be a discussion of the mitigating measures to be executed to protect the environment.

(g) ***Index.***

(h) ***Appendix.***

(i) ***Additional content for the final EIR.*** The final EIR must include the following information in addition to the draft EIR as listed above::

(1) Comments on the draft EIR which must be collected as a result of being circulated for review as well as any text changes that were identified by the reviewer(s)

(2) Agency & public coordination.

(A) The objections and suggestions made by local, state, and federal agencies before and during the EIR review process, along with the issues of public concern expressed by individual citizens and interested environmental groups. The EIR must include discussions of any such comments concerning the action in question, and the author of each comment should be identified. If a comment has resulted in a change in the project or the EIR, the change should be adequately explained.

(B) A summary of the transcript of any public hearing which has been held prior to the publication of the final EIR. For the public hearing which must be held after the publication of the draft EIR, the date, time, place, and purpose of the meeting must be included in this section. All comments received on the draft EIR including any written or oral comments made during the public hearing(s) must be included as well.

(C) A summary of the coordination process and the Department's comments on the draft EIR must be included in the final EIR.

6. ***Preparing & Issuing a Record of Decision.*** After a final EIR has been issued, the Department must issue a ROD prior to or in conjunction with the approval of the facilities plan. The ROD must document the Department's decision whether to approve the project or action or not. The ROD must include identification of mitigation measures derived from the EIR process, including any loan conditions that are deemed necessary to minimize the adverse impacts of the selected alternatives. If the ROD accepts the EIR and any mitigation measures and has been distributed to all the agencies and interested parties on the EIR mailing list, the proposed project or action may proceed. If the ROD is more than 5 years old, or the Department

determines that significant changes have transpired since the original environmental review, the Department must reevaluate the project, environmental conditions, and public conditions and compare them to the information contained within the EIR and make a determination to either:

- (a) Reaffirm the original ROD with a Reaffirmation Notice documenting that no additional significant impacts were identified during the reevaluation process which would require an amended EIR; or
- (b) Require a supplemental EIR that would consider additional studies and comments and would be documented in an addendum to the original ROD.

7. **Mitigation Measures.** The Department must ensure that the Applicant will implement the effective mitigation measures identified in the ROD before final approval to the facilities plan is granted. In all cases, the Department must be assured that the Applicant possesses the authority to fulfill the conditions of the mitigation measures.

8. **Partitioning the Environmental Review.** Under certain circumstances, the preparation of a component or a portion of a drinking water treatment system in advance of completing all the environmental review requirements for the remainder of the system(s) may be justified. When there are overriding considerations of cost or impaired program effectiveness, the Department may approve a loan for a discrete component of the complete drinking water treatment system(s). The process of partitioning the environmental review for the discrete component or portion must comply with the criteria and procedures described in this section. In addition, all reasonable alternatives for the overall drinking water treatment works system(s), of which the component is a part, shall have been previously identified; and each part of the environmental review for the remainder of the overall facilities plan shall comply with all requirements under Section E of this Environmental Review Process Handbook.

- (a) **Criteria for Partitioning.** The proposed project or action must:
 - (1) Immediately remedy a public health or environmental problem.
 - (2) Not cause a significant adverse environmental impact including those which cannot be acceptably mitigate, without completing the entire drinking water treatment system of which the component or portion is a part;
 - (3) Not foreclose any reasonable alternatives identified for the overall drinking water treatment system(s);
 - (4) Not be highly controversial.
- (b) **Request for Partitioning.** The Applicant's request for partitioning must contain the following:

- (1) A description of the discrete component or portion proposed for construction before completing the environmental review of the entire facilities plan;
 - (2) A description of the how the component or portion meets the criteria described in this section;
 - (3) The completed EID for the component or portion of the proposed project or action;
 - (4) Any preliminary information that may be important to the Department in an EIR determination for the total engineering report.
- (c) ***Approval of Requests for Partitioning.*** The Department shall:
- (1) Review the request for partitioning against all requirements of this procedure;
 - (2) Prepare and issue a FNSI if the partitioned portion or component is approved;
 - (3) Include a loan condition prohibiting the building of additional or different components of the entire facilities plan for which the environmental review is not complete.

G. COMPLIANCE MONITORING

The Department shall ensure adequate monitoring of mitigation measures and other loan conditions as identified in the FNSI or the ROD. If the Applicant fails to comply with the mitigation measures or loan conditions, the Department may consider applying sanctions against the Applicant.

APPENDIX A

Sample Letter Requesting A Categorical Exclusion

Date: _____

Ms. Debra Lambeth
Oregon Department of Human Services
Drinking Water Program
P.O. Box 14450
Portland, OR 97293-0450

Re.: Request for a Categorical Exclusion from further environmental review for the
_____ water system

Dear Ms. Lambeth:

I am writing to request a categorical exclusion from further environmental review for ***[Insert Proposed Project Name]*** in accordance with Oregon Administrative Rules 333-061-0063. This project consists of ***[Insert Project Description]***. This project is eligible for a categorical exclusion according to the criteria stated in OAR 333-061-0063 (2) (a) ***[Identify which paragraph A, B or C and support your claim]***.

[Other information regarding the project; where to contact you; etc.].

Sincerely;

Your Name

APPENDIX B

Sample Public Notice for Categorical Exclusion

PUBLIC NOTICE FOR A CATEGORICAL EXCLUSION

The Oregon Department of Human Services - Drinking Water Program has determined that the proposed drinking water [*Insert Project Name such water treatment plant expansion or distribution system facilities improvements*] for the [*Insert Water System Name*] conform to the criteria and requirements of Oregon Administrative Rules 333-061-0063 and the supporting guidance manual (*Environmental Review Process Handbook*) The project, which involves [*Insert Brief Description of the Proposed Project*], is therefore categorically excluded from further environmental review as allowed in the above referenced rules. A copy of the Categorical Exclusion and the facility plan upon which it is based is available for public viewing at:

Oregon Department of Human Services
Drinking Water Program
800 NE Oregon Street; Suite 611
Portland, Oregon 97232
(971) 673-0405

Additional copies are available for review at [*Insert Water System Name & Location of Office along with the telephone number*].

APPENDIX C

**Sample Newspaper Public Notice of the Finding of No Significant Impact (FNSI)
Determination**

Date : _____

FINDING OF NO SIGNIFICANT IMPACT

To: All Interested Government Agencies, Public Groups, and Concerned Citizens

From: *[Insert the Water System Name here]*

Subject: In accordance with rules and procedures implementing the state Drinking Water Revolving Loan Fund, an environmental assessment (EA) has been performed by the Oregon Department of Human Services - Drinking Water Program (Department) on the proposed project *[Insert Project, Location here]*

Purpose / Summary:

[Insert a brief description and purpose of the proposed project. Identify any environmentally sensitive elements impacted such wetlands, flood plains, historic sites, prime agricultural lands, or threatened or endangered species that could be harmed by the proposed project.]

Finding: The Department has reviewed the **environmental information document (EID)** submitted by *[Water System Name]*. Following the review, the Department has issued an environmental assessment (EA) determining that an **environmental impact report (EIR)** is not necessary. The Department hereby issues a **Finding of No Significant Impact (FNSI)** This decision is based on a review of the information contained in the EID and any supporting data. The EID and any supporting data along with the EA are available for public viewing at the Department's offices:

Oregon Department of Human Services
Drinking Water Program
800 NE Oregon Street; Suite 611
Portland, Oregon 97232

Public Comments: Comments supporting or disagreeing with the decision to issue the FNSI may be submitted for consideration by the Department. All comments concerning the FNSI for the above project must be addressed to:

Oregon Department Human Services
Drinking Water Program
Attn. Debra Lambeth
P.O. Box 14450
Portland, Oregon 97293-0450

All comments must be received by the close of business on [*Specify a date 30 days from announcement – contained in EA letter*]. After an evaluation of public comment, the Department will make its final decision. No action will be taken on the project until the close of the comment period.

APPENDIX D

Sample Public Notice of Intent to Prepare an EIR

PUBLIC NOTICE FOR INTENT TO PREPARE AN ENVIRONMENTAL IMPACT REPORT

Based on its review of an Environmental Information Document (EID), the Oregon Department of Human Services - Drinking Water Program has determined in an environmental assessment (EA) that the proposed [*Insert Name of Proposed Project or Action*] for the [*Insert Water System Name*] requires the preparation of an Environmental Impact Report (EIR). The [*Insert Water System Name*] is therefore required to notify the general public and interested parties that the project, which involves [*Insert Brief Description of the Proposed Project and Summary of the Issues*], and must follow the required public involvement process for a formal preparation of an EIR.

[Insert date, time & location of scheduled meetings and contact name & phone number]

Additional copies of the EID are available for review at [*Insert Water System Name & Location of Office*]. Please contact [*name of contact person and phone number*] if you have any questions.

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.