

333-061-0063

Environmental Review Process for The Safe Drinking Water Revolving Loan Fund Program

- (1) This rule provides for environmental review of actions that are funded through the Safe Drinking Water Revolving Loan Fund (SDWRLF). This rule is 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 Authority 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 Authority 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 Authority;
 - (b) Prepare and submit an environmental information document (EID) in a format specified by the Authority; or
 - (c) Prepare and submit an environmental impact report (EIR) in a format specified by the Authority.
- (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 Authority as having no such effect. Such actions may be excluded by the Authority from further environmental review requirements if the information provided by the water supplier and any additional information before the Authority does not identify any environmental effects of the action that warrant additional environmental review by the Authority. The following actions may be categorically excluded by the Authority:
 - (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 sewerred 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) 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 Authority 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 Authority 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 Authority. 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 Authority requires an EID, the applicant shall prepare and the Authority shall review a draft EID. Following its review, the Authority shall either request additional information regarding potential impacts of the proposed action, or shall accept the EID as final. Once the Authority accepts the EID, the Authority shall prepare an environment assessment (EA) of the proposed action based on the EID and any other supplemental information deemed necessary by the Authority. 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 Authority 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 Authority 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 Authority 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 Authority, the Authority may issue a final FNSI, and the action can proceed.

- (e) If the Authority 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 Authority review and decision;
 - (D) The Authority, following its review of the EIR, shall determine whether the action may proceed. In the event the Authority 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 Authority determines the action may proceed following preparation of an EID or an EIR, the Authority 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 Authority determines will best ensure their completion in a timely manner.
- (5) Under appropriate circumstances, the Authority 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 Authority 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 Authority may, in its discretion, waive the requirements of this rule.
 - (b) Environmental reviews may be valid for up to five years. If a loan application is received for an action with an environmental review that is more than five years old, the Authority shall require a new or supplemental environmental review in accordance with these rules.

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 448.131