

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.5408 Planning documents; environmental review; categorical exclusion; criteria; environmental assessment; finding of no significant impact; environmental impact statement; record of decision; project reevaluation for compliance with national environmental policy act requirements; action prohibited during public comment period.

Sec. 5408. (1) The department shall conduct an environmental review of the planning documents of each project in the fundable range of the priority list to determine whether any significant impacts are anticipated and whether any changes can be made in the project to eliminate significant adverse impacts. As part of this review, the department may require the water supplier to submit additional information or meet additional public participation and coordination requirements to justify the environmental determination.

(2) Based on the environmental review under subsection (1), the department may issue a categorical exclusion for categories of actions that do not individually, cumulatively over time, or in conjunction with other federal, state, local, or private actions have a significant adverse effect on the quality of the human environment or public health. Additional environmental information documentation, environmental assessments, and environmental impact statements will not be required for excluded actions.

(3) Following receipt of the planning document, the director shall determine if the proposed project qualifies for a categorical exclusion and document the decision.

(4) The director may revoke a categorical exclusion and require a complete environmental review if, after the determination, the director finds any of the following:

(a) The proposed project no longer qualifies for a categorical exclusion due to changes in the proposed plan.

(b) New evidence exists documenting a serious health or environmental issue.

(c) Federal, state, local, or tribal laws will be violated by the proposed project.

(5) The proposed project must not qualify for a categorical exclusion if the director determines any of the following criteria are applicable:

(a) The proposed project will result in an increase in residuals and sludge generated by drinking water processes, either volume or type, that would negatively impact the performance of the waterworks system or the disposal methods, or would threaten an aquifer recharge zone.

(b) The proposed project will provide service to a population greater than 30% of the existing population.

(c) The proposed project is known, or expected, to directly or indirectly affect cultural areas, fauna or flora habitats, endangered or threatened species, or environmentally important natural resource areas.

(d) The proposed project directly or indirectly involves the extension of transmission systems to new service areas.

(e) The proposed project is shown not to be the cost-effective alternative.

(f) The proposed project will cause significant public controversy.

(6) If, based on the environmental review under subsection (1), the department determines that an environmental assessment is necessary, the department may describe the following:

(a) The purpose and need for the project.

(b) The project, including its costs.

(c) The alternatives considered and the reasons for their acceptance or rejection.

(d) The existing environment.

(e) Any potential adverse impacts and mitigative measures.

(f) How mitigative measures will be incorporated into the project, as well as any proposed conditions of financial assistance and the means for monitoring compliance with the conditions.

(7) The department may issue a finding of no significant impact, based on an environmental assessment that documents that potential environmental impacts will not be significant or that they may be mitigated without extraordinary measures.

(8) An environmental impact statement may be required when the department determines any of the following:

(a) The project will have a significant impact on the pattern and type of land use or the growth and distribution of the population.

(b) The effects of the project's construction or operation will conflict with local or state laws or policies.

(c) The project will have significant adverse impacts on any of the following:

(i) Wetlands.

(ii) Flood plains.

(iii) Threatened or endangered species or habitats.

- (iv) Cultural resources, including any of the following:
 - (A) Park lands.
 - (B) Preserves.
 - (C) Other public lands.
 - (D) Areas of recognized scenic, recreational, agricultural, archeological, or historical value.
- (d) The project will cause significant displacement of population.
- (e) The project will directly or indirectly, such as through induced development, have a significant adverse effect on any of the following:
 - (i) Local ambient air quality.
 - (ii) Public health.
 - (iii) Local noise levels.
 - (iv) Surface water and groundwater quantity or quality.
 - (v) Shellfish.
 - (vi) Fish.
 - (vii) Wildlife.
 - (viii) Wildlife natural habitats.
- (f) The project will generate significant public controversy.
- (9) Based on the environmental impact statement, a record of decision summarizing the findings of the environmental impact statement must be issued identifying those conditions under which the project can proceed and maintain compliance with the national environmental policy act of 1969, Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347.
- (10) If 5 or more years have elapsed since a determination of compliance with the national environmental policy act of 1969, Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347, or if significant changes in the project have taken place, the department shall reevaluate the project for compliance with the national environmental policy act of 1969, Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347, requirements. The department may do any of the following:
 - (a) Reaffirm the original finding of no significant impact or the record of decision through the issuance of a public notice or statement of finding.
 - (b) Issue an amendment to a finding of no significant impact or revoke a finding of no significant impact and issue a public notice that the preparation of an environmental impact statement is required.
 - (c) Issue a supplement to a record of decision or revoke a record of decision and issue a public notice that financial assistance will not be provided.
- (11) Action regarding approval of a planning document or provision of financial assistance must not be taken during a 30-day public comment period after the issuance of a finding of no significant impact or record of decision.

History: Add. 1997, Act 26, Imd. Eff. June 17, 1997;—Am. Act 132, Imd. Eff. June 30, 2022.

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