



SC DEPARTMENT *of*
ENVIRONMENTAL
SERVICES

State Environmental Review Procedure
for the South Carolina State Revolving Fund Program

Contents

I. SOUTH CAROLINA SERP AND THE NEPA-LIKE PROCESS2
A. Background2
B. Legal Foundation.....2
C. Interdisciplinary Approach.....2
D. Decision Documentation.....2
E. Public Notice and Participation.....3
F. Alternatives Consideration3

II. STATE ENVIRONMENTAL REVIEW PROCESS.....4
A. Environmental Information.....4
B. Public Participation.....4
C. Environmental Review.....4
D. Preliminary Engineering Report Approval.....6
E. Reaffirmation of CE/FNSI/EIS.....6

I. SOUTH CAROLINA SERP AND THE NEPA-LIKE PROCESS

A. Background

The State Environmental Review Procedures (SERP) presented henceforth aim to satisfy the requirements of South Carolina (“the State”) to have a functionally equivalent review process under the National Environmental Policy Act (NEPA). The Environmental Protection Agency (EPA) considers five elements of evaluation that the State incorporates in the environmental review process: legal foundation, interdisciplinary approach, decision documentation, public notice and participation, and alternatives consideration. These five elements are detailed below.

B. Legal Foundation

The State has full legal authority to conduct environmental reviews on projects seeking federal funding and assistance from the State Revolving Fund (SRF) Program in the South Carolina Department of Environmental Services (DES), under the authority of 40 CFR § 35.3140 and § 35.3580, and as stated in the 2014 Amendments to FWPCA §602(b)(6). These authorities charge the State with conducting environmental reviews on qualified projects, requiring mitigation measures to ensure that human health and the environment remain sound, and allowing opportunity for public comment and participation, including the ability to challenge determinations.

C. Interdisciplinary Approach

In addition to working with the State Clearinghouse and the South Carolina Rural Infrastructure Authority (RIA) to implement Clean Water and Drinking Water improvement projects, the State also involves several state and federal agencies in the environmental review process. These agencies include but are not limited to: U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, S.C. Department of Natural Resources, the State Historic Preservation Office of the South Carolina Department of Archives and History, the Catawba Indian Nation Tribal Historic Preservation Office, Federal Emergency Management Agency, U.S. National Marine Fisheries Service, and the National Resources Conservation Office.

D. Decision Documentation

Documentation supporting a determination is archived with the State, and determinations are posted for public notice and/or comment, as appropriate. Documentation of determinations are shared with stakeholders that were involved with or consulted during the State’s review of a project.

E. Public Notice and Participation

All construction and rehabilitation projects which receive funding from the SRF program are public noticed. Drinking water study-only and engineering-only projects which receive funding from the SRF program are also public noticed. The public notice system of South Carolina involves posting a determination online, with the documentation for either a Categorical Exclusion (CE) or a Finding of No Significant Impact (FNSI), the project location information, and contact information should the public have comment. These notices are active for an appropriate period of time to allow for public review.

F. Alternatives Consideration

During the environmental review process, several alternatives are considered, including no-action. Projects that receive assistance from the SRF Program typically document that implementation of a no-action alternative would ultimately be harmful to human health and the environmental health of the project's effective area. Other actionable alternatives are considered due to variables within the scope of a project's effect, such as cost, operability, performance reliability, presence of Catawba Indian Nation interests, the presence of endangered species, presence of low-income/minority communities, the proximity of the project area to properties on the National Historic Properties Registry, wetland and floodplain effects, and more. Direct, indirect, and cumulative impacts to all elements of human health and environmental health are considered throughout the course of an environmental review. This is described in more detail in II.A.

II. STATE ENVIRONMENTAL REVIEW PROCESS

The environmental review process results in an evaluation made by the State to determine whether or not a proposed project has a significant impact on the environment and, consequently, whether a CE, an Environmental Impact Statement (EIS) or a FNSI will be prepared. Following are aspects of the review:

A. Environmental Information

The applicant will describe and evaluate the environmental impacts of the feasible alternatives, including the discussion of a no action alternative, within the PER. The scope of environmental information shall be commensurate with the size and significance of the project and allow the State to prepare an adequate environmental assessment. In general, communities should avoid alternatives which significantly affect sensitive areas such as special wildlife habitats, important farmland, floodplains, wetlands, national and natural landmarks, and historical/archaeological sites. If the project will affect such areas, close coordination will be maintained among all interested participants to determine as soon as possible whether or not the project is viable. Where applicable, the State will ensure compliance with Executive Order No. 12898, Environmental Justice.

B. Public Participation

Where appropriate the public will be allowed open comment and involvement. A public meeting and/or hearing may be held for all projects except for those having little or no environmental effect.

C. Environmental Review

Based on relevant information, the State will perform an environmental review and determine whether an EIS, CE, or a FNSI is to be prepared. If a FNSI is appropriate, the State will prepare and issue a FNSI for a 30-day public comment period. An environmental assessment (EA) will be included as part of the FNSI. The EA will summarize the environmental effects of the proposed facilities and list any measures necessary to make the recommended alternative environmentally acceptable. If an EIS is required, the applicant may be required to pay the cost of its preparation. If a CE is appropriate, the CE will be placed on public notice in a procedure similar to 40 CFR 35.3140(b)(4). The detailed process for conducting environmental assessments, determination of CE or FNSI to a project, and documentation of standard practices are discussed in the Environmental Evaluation Guide. Criteria for a CE will be based on the following:

1. A proposed action may be categorically excluded if:
 - a) The action fits within a category of action that is eligible for exclusion; and

- b) The proposed action does not involve any extraordinary circumstances.
- c) The proposed action only requires SRF funding for a study (“study-only”) or engineering services (“engineering-only”) (i.e., no SRF funding for construction).

Certain actions eligible for categorical exclusion require DES to document a determination that a categorical exclusion applies. The documentation must include:

- 1. A brief description of the proposed action;
- 2. A statement identifying the categorical exclusion that applies to the action; and
- 3. A statement explaining why no extraordinary circumstances apply to the proposed action. DES must make a copy of the determination document available to the public upon request.

The categorical exclusions requiring this documentation are as follows:

- 1. Actions involving routine facility maintenance, repair, and grounds-keeping; minor rehabilitation, restoration, renovation, or revitalization of existing water infrastructure; functional replacement of equipment; acquisition and installation of equipment; or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities.
- 2. Actions relating to existing infrastructure systems (such as sewer systems; drinking water supply systems; and stormwater systems) that involve minor upgrading, or minor expansion of system capacity or rehabilitation (including functional replacement) of the existing system and system components (such as the sewer collection network and treatment system; the system to collect, treat, store and distribute drinking water; and stormwater systems, including combined sewer overflow systems) or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities.

a) This category does not include actions that:

- (i) involve new or relocated discharges to surface or ground water;
- (ii) will likely result in the substantial increase in the volume or the loading of pollutant to the receiving water;
- (iii) will provide capacity to serve a population 30% greater than the existing population;
- (iv) are not supported by the state, or other regional growth plan or strategy;

- (v) or directly or indirectly involve or relate to upgrading or extending infrastructure systems primarily for the purposes of future development.
- 3. Actions in unsewered communities that involve the replacement of existing onsite systems.
 - a) provided the new onsite systems do not result in any substantial increases in the volume of discharge or the loadings of pollutants from existing sources or result in the relocation of an existing discharge point.
- 4. Actions involving re-issuance of a NPDES permit for a new source providing the conclusions of the original NEPA document are still valid (including the appropriate mitigation), there will be no degradation of the receiving waters, and the permit conditions do not change or are more environmentally protective.

D. Preliminary Engineering Report Approval

The preliminary engineering report (PER) will be approved after all public comment periods have expired, assuming there are no unresolved issues.

E. Reaffirmation of CE/FNSI/EIS

In the case of an approved PER whose fundable project has been delayed, a CE, FNSI, or EIS with an issue date five or more years old from the posting date of the original public notice will be reevaluated to determine if there have been any significant changes in project scope, environmental conditions, or public response. If the State determines that no significant changes have occurred, the State will issue a Reaffirmation CE, FNSI, or EIS, as appropriate. If significant changes have occurred, updated environmental information and/or a new environmental review may be required.