

## § 907.7

## 36 CFR Ch. IX (7–1–10 Edition)

(1) During the conceptual or preliminary approval study stage, the responsible Corporation official shall determine whether the proposed action or project is one which is categorically excluded, requires an environmental assessment or an EIS.

(2) Prior to proceeding from the conceptual or preliminary approval stage to the detailed planning or final approval stage, an environmental assessment and the determination as to whether an EIS is required must be completed.

(3) An EIS, if determined necessary, must be completed and circulated prior to the decision to proceed from the detailed planning stage to implementation.

### § 907.7 Determination of requirement for EIS.

Determining whether to prepare an environmental impact statement is the first step in applying the NEPA process. In deciding whether to prepare an environmental impact statement, the responsible Corporation official will determine whether the proposal is one that:

(a) Normally requires an environmental impact statement.

(b) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

(c) Normally requires an environmental assessment, but not necessarily an environmental impact statement.

### § 907.8 Actions that normally require an EIS.

PADC shall perform or have performed an environmental assessment to determine if a proposal requires an environmental impact statement. However, it may be readily apparent that a proposed action will have a significant impact on the environment; in such cases, an environmental assessment is not required and PADC will immediately begin to prepare or have prepared the environmental impact statement. To assist in determining if a proposal or action normally requires the preparation of an environmental impact statement, the following criteria and categories of action are provided.

(a) *Criteria.* Criteria used to determine whether or not actions or proposals may significantly affect the environment and therefore require an environmental impact statement are described in 40 CFR 1508.27 of the CEQ Regulations and as follows:

(1) Buildings or facades designated for retention in the Plan will be adversely affected by the proposal or action.

(2) Traffic generated by the proposal or action would represent a substantial increase over the traffic projections assessed in the Final EIS in the average daily traffic volume on avenues and streets within the Development Area or its environs;

(3) Air quality in the Development Area and its environs would be substantially affected by the proposal or action based upon the District of Columbia's adopted standard for hydrocarbons and carbon monoxide;

(4) Solid waste disposal generated by a project of the Corporation or of a developer who is constructing, reconstructing, or rehabilitating that project, would have an adverse effect on the capacity of the relevant solid waste disposal facility and compliance with "Solid Waste Management Guidelines" of the U.S. Environmental Protection Agency and related local and regional controls;

(5) Public utilities have insufficient capacity to provide reliable service to a project within the Development Area; and

(6) A project will be inconsistent with major elements of the Zoning Regulations of the District of Columbia as they are applicable to the Development Area.

(b) *Categories of action.* The following categories of action normally require an environmental impact statement:

(1) Amendments or supplements to the Plan that constitute a "substantial change" to the Plan as defined in 40 U.S.C. 874(c) of the Act.

(2) Acquisition or disposal of real property by the Corporation *not* related to any specific decision, plan, or program adopted by the Board of Directors of the Corporation for which an environmental assessment or an assessment and an EIS has been prepared.

(3) Legislative proposals made to Congress.

(4) Funding and/or construction by the Corporation or its agents or representatives of any building, if that activity is not consistent with the Plan and the Final EIS.

**§ 907.9 Preparation of an EIS.**

(a) *Notice of intent.* When PADC decides to prepare an environmental impact statement, it shall publish a notice of intent in the FEDERAL REGISTER in accordance with 40 CFR 1501.7 and 1508.22 of the CEQ Regulations.

(b) *Preparation.* After determining that an environmental impact statement will be prepared and publishing the notice of intent, PADC will begin to prepare or have prepared the environmental impact statement. Procedures for preparing the environmental impact statement are set forth in 40 CFR part 1502, CEQ Regulations.

(c) *Supplemental environmental impact statements.* PADC may supplement a draft or final environmental impact statement at any time. PADC shall prepare a supplement to either the draft or final environmental impact statement when (1) substantial changes are proposed to an action contained in the draft or final EIS that are relevant to environmental concerns or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts; or (2) actions are proposed which relate or are similar to other action(s) taken or proposed and that together will have a cumulatively significantly impact on the environment.

**§ 907.10 Categorical exclusion.**

The CEQ Regulations provide for the categorical exclusion (40 CFR 1508.4) of actions that do not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required for such actions.

(a) *Criteria.* Criteria used to determine those categories of action that normally do not require either an environmental impact statement or an environmental assessment include:

(1) The action or proposal is consistent with the Plan or the Act, and the environmental effects have been previously analyzed in the Final EIS, a supplement thereto, or in an environmental assessment or an EIS previously prepared; or

(2) The total estimated cost directly attributable to the action or proposal does not exceed \$500,000; or

(3) The action or proposal is related solely to internal administrative operations of the Corporation.

(b) *List of categorical exclusions.* Categories of action, identified in appendix A (attached) have been determined by PADC to have no significant effect on the human environment and are therefore categorically excluded from the preparation of environmental impact statements and environmental assessments.

(c) *Changes to the list of categorical exclusion.* (1) The PADC List of Categorical Exclusion will be continually reviewed and refined as additional categories are identified and as experience is gained in the categorical exclusion process.

(2) Additional categories of exclusion identified will be submitted to the Chairman of the Board of Directors for review and approval, and for amendments to this part, following public comment and review by the Council on Environmental Quality.

**§ 907.11 Actions that normally require an environmental assessment.**

If a proposal or action is not one that normally requires an environmental impact statement, and does not qualify for categorical exclusion, PADC will prepare or have prepared an environmental assessment.

(a) *Criteria.* Criteria used to determine those categories of action that normally require an environmental assessment, but not necessarily an environmental impact statement, include:

(1) Potential for minor degradation of environmental quality;

(2) Potential for cumulative impact on environmental quality; and

(3) Potential for impact on protected resources.

(b) *Categories of action.* The following categories of action normally require