

## § 6.502

works pursuant to 40 CFR part 35, subpart E or I.

### § 6.502 Applicability and limitations.

(a) *Applicability.* This subpart applies to the following actions:

(1) Approval of a facilities plan or an amendment to the plan;

(2) Award of grant assistance for a project where significant change has occurred in the project or its impact since prior compliance with this part; and

(3) Approval of preliminary Step 3 work prior to the award of grant assistance pursuant to 40 CFR part 35, subpart E or I.

(b) *Limitations.* (1) Except as provided in § 6.504(c), all recipients of Step 1 grant assistance must comply with the requirements, steps, and procedures described in this subpart.

(2) As specified in 40 CFR 35.2113, projects that have not received Step 1 grant assistance must comply with the requirements of this subpart prior to submission of an application for Step 3 or Step 2+3 grant assistance.

(3) Except as otherwise provided in § 6.507, no step 3 or 2+3 grant assistance may be awarded for the construction of any component/portion of a proposed wastewater treatment system(s) until the responsible official has:

(i) Completed the environmental review for all complete wastewater treatment system alternatives under consideration for the facilities planning area, or any larger study area identified for the purposes of conducting an adequate environmental review as required under this subpart; and

(ii) Recorded the selection of the preferred alternative(s) in the appropriate decision document (ROD for EISs, FNSI for environmental assessments, or written determination for categorical exclusions).

(4) In accord with § 6.302(f), on or after October 18, 1982, no new expenditures or financial assistance involving the construction grants program can be made within the Coastal Barrier Resource System, or for projects outside the system which would have the effect of encouraging development in the system, other than specified exceptions

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made by the EPA after consultation with the Secretary of the Interior.

[50 FR 26317, June 25, 1985, as amended at 51 FR 32611, Sept. 12, 1986]

### § 6.503 Overview of the environmental review process.

The process for conducting an environmental review of wastewater treatment construction grant projects includes the following steps:

(a) *Consultation.* The Step 1 grantee or the potential Step 3 or Step 2+3 applicant is encouraged to consult with the State and EPA early in project formulation or the facilities planning stage to determine whether a project is eligible for a categorical exclusion from the remaining substantive environmental review requirements of this part (§ 6.505), to determine alternatives to the proposed project for evaluation, to identify potential environmental issues and opportunities for public recreation and open space, and to determine the potential need for partitioning the environmental review process and/or the need for an Environmental Impact Statement (EIS).

(b) *Determining categorical exclusion eligibility.* At the request of a potential Step 3 or Step 2+3 grant applicant, or a Step 1 facilities planning grantee, the responsible official will determine if a project is eligible for a categorical exclusion in accordance with § 6.505. A Step 1 facilities planning grantee awarded a Step 1 grant on or before December 29, 1981 may request a categorical exclusion at any time during Step 1 facilities planning. A potential Step 3 or Step 2+3 grant applicant may request a categorical exclusion at any time before the submission of a Step 3 or Step 2+3 grant application.

(c) *Documenting environmental information.* If the project is determined to be ineligible for a categorical exclusion, or if no request for a categorical exclusion is made, the potential Step 3 or Step 2+3 applicant or the Step 1 grantee subsequently prepares an Environmental Information Document (EID) (§ 6.506) for the project.

(d) *Preparing environmental assessments.* Except as provided in § 6.506(c)(4) and following a review of the EID by

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EPA or by a State with delegated authority, EPA prepares an environmental assessment (§ 6.506), or a State with delegated authority (§ 6.514) prepares a preliminary environmental assessment. EPA reviews and finalizes any preliminary assessments. EPA subsequently:

(1) Prepares and issues a Finding of No Significant Impact (FNSI) (§ 6.508); or

(2) Prepares and issues a Notice of Intent to prepare an original or supplemental EIS (§ 6.510) and Record of Decision (ROD) (§ 6.511).

(e) *Monitoring.* The construction and post-construction operation and maintenance of the facilities are monitored (§ 6.512) to ensure implementation of mitigation measures (§ 6.511) identified in the FNSI or ROD.

[50 FR 26317, June 25, 1985, as amended at 51 FR 32611, Sept. 12, 1986]

### § 6.504 Consultation during the facilities planning process.

(a) *General.* Consistent with 40 CFR 1501.2 and 35.2030(c), the responsible official shall initiate the environmental review process early to identify environmental effects, avoid delays, and resolve conflicts. The environmental review process should be integrated throughout the facilities planning process. Two processes for consultation are described in this section to meet this objective. The first addresses projects awarded Step 1 grant assistance on or before December 29, 1981. The second applies to projects not receiving grant assistance for facilities planning on or before December 29, 1981 and, therefore, subject to the regulations implementing the Municipal Wastewater Treatment Construction Grant Amendments of 1981 (40 CFR part 35, subpart I).

(b) *Projects receiving Step 1 grant assistance on or before December 29, 1981.*

(1) During facilities planning, the grantee shall evaluate project alternatives and the existence of environmentally important resource areas including those identified in § 6.108 and § 6.509 of this subpart, and potential for open space and recreation opportunities in the facilities planning area. This evaluation is intended to be brief and concise and should draw on exist-

ing information from EPA, State agencies, regional planning agencies, areawide water quality management agencies, and the Step 1 grantee. The Step 1 grantee should submit this information to EPA or a delegated State at the earliest possible time during facilities planning to allow EPA to determine if the action is eligible for a categorical exclusion. The evaluation and any additional analysis deemed necessary by the responsible official may be used by EPA to determine whether the action is eligible for a categorical exclusion from the substantive environmental review requirements of this part. If a categorical exclusion is granted, the grantee will not be required to prepare a formal EID nor will the responsible official be required to prepare an environmental assessment under NEPA. If an action is not granted a categorical exclusion, this evaluation may be used to determine the scope of the EID required of the grantee. This information can also be used to make an early determination of the need for partitioning the environmental review or for an EIS. Whenever possible, the Step 1 grantee should discuss this initial evaluation with both the delegated State and EPA.

(2) A review of environmental information developed by the grantee should be conducted by the responsible official whenever meetings are held to assess the progress of facilities plan development. These meetings should be held after completion of the majority of the EID document and before a preferred alternative is selected. Since any required EIS must be completed before the approval of a facilities plan, a decision whether to prepare an EIS is encouraged early during the facilities planning process. These meetings may assist in this early determination. EPA should inform interested parties of the following:

(i) The preliminary nature of the Agency's position on preparing an EIS;

(ii) The relationship between the facilities planning and environmental review processes;

(iii) The desirability of public input; and

(iv) A contact person for further information.