

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 34.
PUBLIC UTILITIES.

CHAPTER 26.
PUBLIC UTILITY ENVIRONMENTAL IMPACT
STATEMENT REQUIREMENTS.

2001 Edition

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IMPACT STATEMENT REQUIREMENTS.

TABLE OF CONTENTS

[§ 34-2601. Purpose.](#)

[§ 34-2602. Definitions.](#)

[§ 34-2603. Environmental impact statement requirements.](#)

[§ 34-2604. Rules.](#)

CHAPTER 26. PUBLIC UTILITY ENVIRONMENTAL IMPACT STATEMENT REQUIREMENTS.

§ 34-2601. PURPOSE.

The purpose of this chapter is to protect and enhance the public health, welfare and safety of the citizens of the District of Columbia ("District") and provide for the fullest possible preservation and protection of the environment. If a public utility proposes an action, it shall prepare and transmit a detailed environmental impact statement to the Public Service Commission ("Commission"). If the Commission determines that an unacceptable risk of adverse health effects exists because of an action that is proposed by a public utility, a public utility doing business in the District of Columbia shall not construct a facility or undertake a project without a detailed and comprehensive analysis and understanding of the impact that the project or the construction or operation of the facility may have on the public health, safety, and environment. These goals require that a public utility prepare and file an environmental impact statement that complies fully with the requirements of this chapter, before application is made to the Department of Consumer and Regulatory Affairs for a permit, and subchapter V of Chapter 1 of Title 8.

(Oct. 19, 1989, D.C. Law 8-45, § 2, 36 DCR 5779.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1901.

Legislative History of Laws

Law 8-45, "District of Columbia Public Utility Environmental Impact Statement Requirement Act of 1989," was introduced in Council and assigned Bill No. 8- 208, which was referred to the Committee on Public Services. The Bill was adopted on first and second readings on June 27, 1989 and July 11, 1989, respectively. Signed by the Mayor on August 1, 1989, it was assigned Act No. 8-78 and transmitted to both Houses of Congress for its review.

§ 34-2602. DEFINITIONS.

For the purposes of this chapter, the term:

(1) "Action" means any project or activity proposed by a public utility that, if implemented, would be likely to have a significant effect on the quality of the environment. The term "action" shall include a new and continuing project or activity that is directly undertaken by a public utility or its agent or subsidiary, that would require the issuance of a lease, permit, license, certificate, or other entitlement for use or permission to act by the Commission. The term "action" shall not include:

- (A) A project or activity of an administrative nature that does not involve an exercise of discretion;
- (B) An enforcement proceeding;
- (C) An emergency action that responds to an immediate threat to public health or safety;
- (D) Maintenance or repair that does not involve a substantial change in an existing structure or facility;
- (E) A normal extension of electric company service;
- (F) The extension or replacement of a gas distribution facility;
- (G) The extension or replacement of a telephone line as defined in § 34-221; and
- (H) The installation, repair, or replacement of equipment or a device identified in § 34-206, with the

exception of an electric generating facility or overhead transmission line of 69,000 volts and over.

(2) "Environment" means the physical conditions that will be affected by a proposed action, including the land, air, water, minerals, flora, fauna, objects of historic, health, or aesthetic significance, existing patterns of population concentration, distribution, or growth, and existing community or neighborhood characteristics, including traffic patterns and noise levels.

(Oct. 19, 1989, D.C. Law 8-45, § 3, 36 DCR 5779; May 21, 1994, D.C. Law 10-121, § 2, 41 DCR 1653; May 9, 2000, D.C. Law 13-107, § 206, 47 DCR 1091.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1902.

Effect of Amendments

D.C. Law 13-107 substituted in par. (1)(E) the word "company" for "utility"

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § of Public Utility Environmental Impact Statement Electrical Temporary Amendment Act of 1993 (D.C. Law 10-23, September 30, 1993, law notification 42 DCR 7216).

Legislative History of Laws

For legislative history of D.C. Law 8-45, see Historical and Statutory Notes following § 34-2601.

Law 10-121, the "Public Utility Environmental Impact Statement Electrical Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-284, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on February 1, 1994, and March 1, 1994, respectively. Signed by the Mayor on March 21, 1994, it was assigned Act No. 10-212 and transmitted to both Houses of Congress for its review. D.C. Law 10-121 became effective on May 21, 1994.

Law 13-107, the "Retail Electric Competition and Consumer Protection Act of 1999," was introduced in Council and assigned Bill No. 13-284, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 7, 1999, and December 21, 1999, respectively. Signed by the Mayor on January 18, 2000, it was assigned Act No. 13-256 and transmitted to both Houses of Congress for its review. D.C. Law 13-107 became effective on May 9, 2000.

§ 34-2603. ENVIRONMENTAL IMPACT STATEMENT REQUIREMENTS.

(a) If a public utility proposes an action, it shall prepare and transmit to the Commission a detailed environmental impact statement within 60 days following the submission of the proposal. The environmental impact statement shall describe in detail the proposed action, the necessity for the proposed action, and a brief discussion of the following factors:

- (1) The nature of the proposed action and the environment that the proposed action would affect;
- (2) The need for the proposed action;
- (3) The reasons for the selection of the site for a proposed action, if any;
- (4) The long- and short-term impact of the proposed action on the environment;
- (5) Any adverse environmental effect that cannot be avoided if the proposed action is implemented;
- (6) Measures proposed to minimize any adverse environmental effect;
- (7) Any commitment of resources involved in the proposed action;
- (8) The impact of the proposed action on the use and conservation of energy resources, if applicable and significant; and
- (9) Any additional information that the Commission determines to be helpful in determining the environmental impact of the proposed action.

(b) The environmental impact statement shall be considered in addition to any Department of Consumer and Regulatory Affairs' decision regarding the environmental impact of the action.

(c) For any proposed action that is subject to this chapter, including but not limited to new plant construction or the expansion of an existing plant, the public utility shall perform an analysis that identifies the cumulative risk of adverse health effects from any existing and projected emissions of pollutants from the proposed action. If the Commission determines, on the basis of the analysis and any other information submitted at any public hearing on the pending application, that the addition of the new facility may create an unacceptable risk of adverse health effects, the Commission shall require the public utility to submit the following information:

(1) An analysis and determination of the current, baseline, ambient air quality within a 1/2 mile radius of the proposed action that identifies the concentrations of all potentially toxic air and water pollutants emitted by the existing facility and the proposed action;

(2) An analysis of the current, baseline, health status of the population found by the Commission to be most directly affected by the construction or operation of the proposed action; and

(3) An analysis of the impact of the construction and operation of the proposed action on human health or the environment in light of the results of the analyses conducted under paragraphs (1) and (2) of this subsection.

(d) For a proposed action that is the subject of an application pending on October 19, 1989, the public utility shall prepare and submit an environmental impact statement within 30 days of October 19, 1989. To the maximum extent practicable, the statement shall rely on environmental information available on October 19, 1989. The Commission may require the public utility to submit any additional information that, in the Commission's judgment, is needed to satisfy the requirements set forth in subsection (a) of this section or to enable the Commission to make its decision concerning the reasonable safety and adequacy of the proposed facility.

(Oct. 19, 1989, D.C. Law 8-45, § 4, 36 DCR 5779.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1903.

Legislative History of Laws

For legislative history of D.C. Law 8-45, see Historical and Statutory Notes following § 34-2601.

§ 34-2604. RULES.

The Commission shall, pursuant to subchapter I of Chapter 5 of Title 2, issue proposed rules to implement the provisions of this chapter.

(Oct. 19, 1989, D.C. Law 8-45, § 5, 36 DCR 5779.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1904.

Legislative History of Laws

For legislative history of D.C. Law 8-45, see Historical and Statutory Notes following § 34-2601.