

CHAPTER 2401-61 ENVIRONMENTAL IMPACT STATEMENT REGULATIONS

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GENERAL PROVISIONS

2401-61-01 Purpose and Authority

The Environmental Quality Protection Act (RPPL No. 1-58) 24 Palau National Code Section 101 et. seq. as amended (the "Act") establishes general standards for environmental review by the Republic of Palau Environmental Quality Protection Board which shall insure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations. The purpose of this Chapter is to provide agencies and persons with procedures, specifications of contents of environmental impact statements and criteria and definitions of nationwide application.

(Effective May 26, 1996)

2401-61-02 Definitions

As used herein, unless the context otherwise requires, the term:

(A) "Acceptance" means a formal determination that the document required to be filed pursuant to Section 2401-61-18, fulfills the definitions and requirements of an environmental impact statement, adequately describes all identifiable environmental impacts, and satisfactorily responds to all comments received during the review of the statement. Acceptance does not mean that the action is environmentally sound or unsound nor denotes the grant of any permits required under the Environmental Quality Protection Act and any regulations promulgated thereunder, but only that the document complies with 24 PNC Sections 141 through 143.

(B) "Action" means any program or project to be initiated by an applicant.

(C) "Agency" means any department, office, board, or commission of any state government or the national government of the Republic of Palau.

(D) "Applicant" means any person who, pursuant to statute, ordinance, or rule, officially requests approval from the Board for a proposed action.

(E) "Approval" means a discretionary consent required from an agency prior to actual implementation of an action.

(F) "Discretionary Consent" means a consent, sanction, or recommendation from an agency for which judgment and free will may be exercised by the issuing agency.

(G) "Board," means the Republic of Palau Environmental Quality Protection Board or its authorized representative.

(H) "Environment" means humanity's surroundings, inclusive of all the physical, economic and social conditions that exist within the area affected by a proposed action, including land, human and animal communities, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

(I) "Environmental Assessment," or "EA" means a written evaluation by an applicant to determine whether an action may have a significant environmental effect.

(J) "Environmental Impact" means an effect of any kind, whether immediate or delayed, on any component of the whole of the environment.

(K) "Environmental Impact Statement" or "Statement" or "EIS" means an informational document prepared in compliance with 24 PNC Sections 141 through 143 and these regulations which discloses the environmental effects of a proposed action, effects of a proposed action on the economic and social welfare of the community, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects and alternatives to the action and their environmental effects. The initial statement filed for public review shall be referred to as the "draft statement" or "draft EIS" and shall be distinguished from the "final statement" or "final EIS" which is the document that has incorporated the public's comments and the responses to those comments. The final statement is the document that shall be evaluated for acceptability by the Board.

(L) "Environmental Impact Statement Preparation Notice" or "EIS Preparation Notice" means a document informing the applicant of a Board determination, after an environmental assessment, that the preparation of an environmental impact statement is required.

(M) "Exempt Classes of Action" means exceptions from the requirements of these regulations for a class of actions, based on a determination that the class of actions will probably have a minimal or no significant effect on the environment.

(N) "Negative Declaration" means a determination by the Board that a given action not otherwise exempt does not have a significant effect on the environment and therefore does not require the preparation of an environmental impact statement.

(O) "Person" includes any individual, partnership, firm, association, trust, estate, private corporation, or other legal entity and includes any department, office, board or commission of the National Government or of any state government.

(P) "Significant Effect" or "Significant Impact" means the sum of effects on the quality of the environment, including actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the environment, are contrary to the Republic of Palau's environmental policies or long-term environmental goals and guidelines as established under the Act and these regulations.

(Effective May 26, 1996)

ENVIRONMENTAL ASSESSMENT (EA) PROCESS

2401-61-03 Applicability

Except as otherwise provided, an environmental assessment shall be required for any and all actions which propose:

(A) The use of national or state lands;

(B) The use of national or state funds, unless the funds are to be used for:

(1) Feasibility or planning studies for possible future programs or projects which the applicant has not yet approved, adopted, or funded, provided however, that the applicant shall specifically consider environmental factors and available alternatives in its feasibility or planning studies, or;

(2) The acquisition of unimproved real property;

(C) Any use within any land which has been or may be classified as conservation district by the Republic or one of its state's land use commissions.

(D) Any use directly or indirectly impacting "coastal waters" and "wetlands" as defined in the Republic of Palau Marine and Fresh Water Quality Regulations.

(E) Any use within any historic site as designated by the Palau Historic Preservation Office.

(F) Any proposed action which the Board determines may have a significant impact on the environment.

(Effective May 26, 1996)

2401-61-04 Exempt Classes of Action

(A) Some classes of actions shall be exempted from preparation of an environmental assessment because they will probably have minimal or no significant effect on the environment. Actions exempt from the preparation of an environmental assessment under this section are not exempt from complying with any other applicable statute, rule or regulation. The following list represents exempt classes of action:

(1) Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing;

(2) Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced;

(3) Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource;

(4) Construction and location of single, new, small facilities or structures and the alteration and modification of same and installation of new, small equipment and facilities and the alteration and modification of same including:

(a) Single family residences not in conjunction with the building of two or more of such units;

(b) Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures;

(c) Stores, offices and restaurants designed for total occupant load of twenty persons or less, if not in conjunction with the building of two or more such structures;

(d) Water, sewage, electrical, gas telephone and other essential public utility services extensions to serve such structures or facilities; and accessory or appurtenant structures including garages, carports, patios, swimming pools and fences;

(5) Interior alterations involving things such as partitions, plumbing, and electrical conveyances;

(6) Demolition of structures, except those structures located on any historic site.

(B) All exemptions under the classes in this section are inapplicable when the cumulative impact of planned successive actions of the same type, in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment.

(Effective May 26, 1996)

2401-61-05 Contents of EA

(A) Identification of applicant;

(B) Identification of agencies and organizations consulted in making assessment;

(C) General description of the action's technical, economic, social, and environmental characteristics;

(D) Summary description of the affected environment, including suitable and adequate location and site maps;

(E) Identification and summary of major impacts and alternatives considered, if any; and

(F) Proposed mitigation measures, if any.

(Effective May 26, 1996)

2401-61-06 Significance Criteria

(A) In considering the significance of potential environmental effects, the Board shall consider the sum of effects on the quality of the environment, and shall evaluate the overall and cumulative effects of an action.

(B) In determining whether an action may have a significant effect on the environment, the Board shall consider every phase of a proposed action, the expected consequences, both primary and secondary, and the cumulative as well as the short and long-term effects of the action. In most instances, an action shall be determined to have a significant effect on the environment if it:

- (1) Involves an irrevocable commitment to loss or destruction of any natural or cultural resource;
- (2) Curtails the range of beneficial use of the environment;
- (3) Conflicts with the Republic of Palau's long-term environmental policies or goals and guidelines as expressed in the Environmental Quality Protection Act and any revisions thereof and amendments thereto, any regulations promulgated thereunder and relevant court decisions;
- (4) Substantially affects the economic or social welfare of the community;
- (5) Substantially affects public health;
- (6) Involves a substantial secondary impacts, such as population changes or effects on public facilities or infrastructure;
- (7) Involves a substantial degradation of environmental quality;
- (8) Is individually limited but cumulatively has considerable effect upon the environment or involves a commitment for larger actions;
- (9) Substantially affects a rare, threatened or endangered species, or its habitat;
- (10) Detrimentally affects air or water quality or ambient noise levels; or
- (11) Affects an environmentally sensitive area such as flood plain, erosion-prone area, geologically hazardous land, estuary, lagoon, reef area, mangrove swamp, fresh water, or coastal waters.

(Effective May 26, 1996)

2401-61-07 Notice of Determination

(A) After completing an environmental assessment, an applicant shall file four copies of an environmental assessment with the Board. After reviewing an applicant's environmental assessment, the Board shall issue a notice of determination. Public notice of a notice of determination *that an environmental impact statement must be prepared** shall be made in accordance with Section 2401-61-23 of this Chapter.

- (1) If the Board determines that an action requires the preparation of an environmental impact statement, the notice of determination will be considered to be an environmental impact statement preparation notice; or
- (2) If the agency determines that an environmental

impact statement is not required, the notice shall be considered to be a negative declaration.

(B) As soon as practicable after any determination is made, a notice of determination for any action should be delivered to the applicant by the Board.

(C) A notice of determination shall indicate in a concise manner:

- (1) Identification of applicant or proposing agency;
- (2) Brief description of proposed action;
- (3) Determination;
- (4) Reasons supporting determination; and
- (5) Name, address, and phone number of contact person for further information.

(Effective May 26, 1996)

* (Amendment Effective November 6, 1998)

ENVIRONMENTAL IMPACT STATEMENT (EIS) PROCESS

2401-61-08 Preparation of Draft and Final EIS

Where an environmental impact statement is required, the applicant shall arrange for the preparation of the environmental impact statement in accordance with Section 2401-61-11, submit the environmental impact statement for review and comments, and revise the environmental impact statement taking into account all critiques and responses. Consequently, an environmental impact statement involves more than the preparation of a document; it involves the entire process of research, discussion, preparation of a statement and review. The environmental impact statement process shall involve at a minimum: identifying environmental concerns, obtaining various relevant data, conducting necessary studies, receiving public and agency input, evaluating alternatives, and proposing measures for minimizing adverse impacts. An environmental impact statement is meaningless without the conscientious application of the environmental impact statement process as a whole, and shall not be merely a self-serving recitation of benefits and a rationalization of the proposed action.

(Effective May 26, 1996)

2401-61-09 Consultation Prior to Filing EIS.

(A) In the preparation of an environmental impact statement, an applicant shall insure that all appropriate parties both in the public and private sectors are consulted. To this end, an applicant shall endeavor to develop a fully acceptable environmental impact statement prior to the time the statement is filed with the Board, through a full and complete consultation process, and shall not rely solely upon the review process to expose environmental concerns.

(B) Upon public notification of an environmental impact statement preparation notice, agencies, groups or individuals shall have a period of thirty days in which to request to become a consulted party and to make written comments regarding the environmental effects of the proposed action. Upon written request by the consulted party and upon good cause shown, the Board may extend the period for comments for a period not to exceed thirty days.

(C) Upon receipt of a request to be a consulted party, the applicant shall immediately make a written request to the agencies, groups or individuals who wish to be consulted for comments and shall accompany said request with a copy of the environmental impact statement preparation notice. Additionally the applicant may provide any other information it deems necessary. The applicant may also contact other agencies, groups or individuals which it feels may provide pertinent additional information.

(D) Any substantive comments received by the applicant pursuant to this section shall be responded to in writing by the applicant prior to the filing of an environmental impact statement with the Board.

2401-61-10 Full Disclosure of Impacts and Alternatives Required

The environmental impact statement shall contain an explanation of the environmental consequences of the proposed action. The contents shall fully declare the environmental implications of the proposed action and shall discuss all relevant and feasible consequences of the action. In order that the public can be fully informed and that the Board can make a sound decision based upon the full range of responsible opinions on environmental effects, this statement must include responsible opposing views, if any, on significant environmental issues raised by the proposal.

(Effective May 26, 1996)

2401-61-11 Reimbursement of Fees; Independent Preparer Required

(A) Independent Third Party Preparer.

(1) With regards to projects which require an environmental impact statement under this Chapter, the Board shall require the applicant to have an independent third party prepare the environmental impact statement for the applicant's project.

(2) The applicant shall pay for the cost of the independent third party generating the applicant's environmental impact statement. In the event supplemental statements to the environmental impact statement are required by the Board, the applicant shall also pay for the costs of these supplemental statements.

(3) In order to choose the independent third party who

will prepare the applicant's environmental impact statement, the Board shall *prepare a list of consultants qualified in the preparation of environmental impact statements. The list shall be prepared annually by soliciting statements of qualifications for environmental consultants, which shall be evaluated by an internal review based on publicly announced criteria.**

(4) *The applicant shall select the independent third party to prepare the environmental impact statement for the applicant's project from the list compiled by the Board.** A contract for services shall then be negotiated and executed between the selected consultant and the applicant. *The applicant and consultant must consult with and receive the approval of the Board regarding the negotiated scope of work for the project before the contract is signed.**

(5) The applicant shall pay in advance for the preparation of the environmental impact statement prior to the commencement of work under the contract. *These monies shall be held in an escrow account by EQPB until such time as these monies are disbursed to the consultant.**

(B) Reimbursement for Monitoring, Inspection, and Miscellaneous Expenses Incurred by the Board.

(1) During the review by the Board of the draft and final environmental impact statement, the Board routinely engages in fieldwork and on-site inspections and incurs mailing, facsimile, telephone and copying charges.

(2) The applicant shall reimburse the Board for expenses it incurs during the preparation and review of the environmental impact statement *including mailing, facsimile, telephone, copying, transportation, and any fees paid to specialist required to review the environmental impact statement.**

(3) The Board shall submit an itemized list of these reimbursable costs to applicant prior to the issuance of a decision on the applicant's environmental impact statement and applicant shall pay same prior to the issuance of any decision on the project and within thirty days of the Board's submission of the itemized list. These fees are non-refundable in the event an application is denied.

(Effective May 26, 1996)

**(Amendment Effective November 6, 1998)*

2401-61-12 Content Requirements; Draft EIS

(A) The draft environmental impact statement, at a minimum, shall contain all the information required in this section.

(B) The draft environmental impact statement shall contain a summary sheet which concisely discusses the following:

- (1) Brief description of the action;
- (2) Significant beneficial and adverse impacts;
- (3) Proposed mitigation measures;
- (4) Alternatives considered;
- (5) Unresolved issues; and

(6) Compatibility with land use plans and policies, *including compatibility with the terms, conditions, provisions and management plans for any National, State or traditional conservation area, preserve or other protected area as established by law,** and listing of permits or approvals.

(C) The draft environmental impact statement shall contain a table of contents.

(D) The draft environmental impact statement shall contain a statement of purpose and need for action.

(E) The draft environmental impact statement shall contain a project description which shall include the following information, but need not supply extensive detail beyond that needed for evaluation and review of the environmental impact:

(1) A detailed map (preferably United States Geological Survey topographic map) and related regional map;

(2) Statement of objectives;

(3) General description of the action's technical, economic, social, and environmental characteristics;

(4) Use of public funds or lands for the action;

(5) Phasing and timing of action;

(6) Summary technical data, diagrams, and other information necessary to permit an evaluation of potential environmental impact by commenting agencies and the public; and

(7) Historic perspective.

(F) The draft environmental impact statement shall contain any known alternatives for the action. These alternatives which could feasibly attain the objectives of the action—even though more costly—shall be described and explained as to why they were rejected. A rigorous exploration and objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might enhance environmental quality or avoid or reduce some or all of the adverse environmental benefits, costs, and risks shall be included in the review process in order not to prematurely foreclose options which might enhance environmental quality or have less detrimental effects. Examples of the alternatives include:

(1) The alternative of no action or of postponing action pending further study;

(2) Alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts;

(3) Alternatives related to different designs or details of the proposed actions which would present different environmental impacts; and,

(4) Alternative measures to provide for compensation of fish and wildlife losses, and water quality and wetlands losses including the acquisition of land, waters, and interests therein.

In each case, the analysis shall be sufficiently detailed to allow the comparative evaluation of the environmental benefits, costs, and risks of the proposed action and each reasonable alternative.

(G) The draft environmental impact statement shall contain a description of environmental setting, including a description of the environment in the

vicinity of the action, from both a local and regional perspective. Special emphasis shall be placed on environmental resources that are rare or unique to the region and the project site (including natural or man-made resources of historic, archaeological, or aesthetic significance); specific reference to related projects, public and private, existing or planned in the region shall be included for purposes of examining the possible overall cumulative impacts of such actions. It is essential that the sources of data used to identify, quantify, qualify, or evaluate any and all environmental consequences be expressly noted.

(H) The draft environmental impact statement shall contain a statement of the relationship of the proposed action to land use plans, policies, and controls for the affected area on both the national and state government levels as well as land policies and land uses under traditional Palauan law. Discussion of how the proposed action may conform or conflict with objectives and specific terms of approved or proposed land use plans, policies, controls, and traditional uses, if any, for the area affected shall be included. Where a conflict or inconsistency exists, the statement shall describe the extent to which the applicant has reconciled its proposed action with the plan, policy, control, or use and the reasons why the applicant has decided to proceed, notwithstanding the absence of full reconciliation. The draft environmental impact statement shall also contain a list of necessary approvals, required for the action, from governmental agencies, boards, commissions, traditional leaders or other similar groups having jurisdiction. The status of each identified approval shall also be described.

(I) The draft environmental impact statement shall contain a statement of the probable impact of the proposed action on the environment, which shall include consideration of all consequences on the environment; direct and indirect effects shall be included. The interrelationships and cumulative environmental impacts of the proposed action and other related projects shall be discussed in the draft environmental impact statement. It should be realized that several actions, in particular those that involve the construction of public facilities or structures (e.g., highways, airports, sewer systems, water resource projects, etc.) may well stimulate or induce secondary effects. These secondary effects may be equally important as, or more important than, primary effects, and shall be thoroughly discussed to fully describe the probable impact of the proposed action on the environment. The population and growth impacts of an action shall be estimated if expected to be significant, and an evaluation made of the effects of any possible change in population patterns or growth upon the resource base, including land use, water, and public services, of the area in question. Also, if the proposed action constitutes a direct or indirect source of pollution as prescribed by any governmental agency, necessary data shall be incorporated in the draft environmental impact statement. The significance of the impacts shall be discussed in

terms of Divisions J through M, inclusive, of this Section.

(J) The draft environmental impact statement shall address the relationship between local short term uses of the environment and the maintenance and enhancement of long-term productivity. A brief discussion of the extent to which the proposed action forecloses future options, narrows the range of beneficial uses of the environment, or poses long-term risks to health or safety shall be included.

(K) The draft environmental impact statement shall address all irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. Identification of unavoidable impacts and the extent to which the action makes use of non-renewable resources during the phases of the action, or irreversibly curtails the range of potential uses of the environment shall also be included. The possibility of environmental accidents resulting from any phase of the action shall also be considered. For purposes of this Section, "resources" also means the natural and cultural resources committed to loss or destruction by the action.

(L) The draft environmental impact statement shall address all probable adverse environmental effects which cannot be avoided. Any adverse effects such as water or air pollution, urban congestion, threats to public health or other consequences adverse to environmental goals and guidelines established by the Environmental Quality Protection Act, shall be included as a brief summary including those effects to be discussed pursuant to other Divisions of this Section which are adverse and unavoidable under the proposed action. Also, any rationale for proceeding with a proposed action, notwithstanding unavoidable effects, shall be clearly set forth. The draft environmental impact statement shall indicate what other interests and considerations of governmental policies are thought to offset the adverse environmental effects of the proposed action. The statement shall also indicate the extent to which the stated countervailing benefits could be realized by following reasonable alternatives to the proposed action that would avoid some or all of the adverse environmental effects.

(M) The draft environmental impact statement shall consider mitigation measures proposed to minimize impact. Description of any mitigation measures included in the action plan to reduce significant, unavoidable, adverse impacts to insignificant levels, and the basis for considering these levels acceptable shall be included. Where a particular mitigation measure has been chosen from among several alternatives, the measures shall be discussed and reasons given for the choice made.

(N) The draft environmental impact statement shall contain a summary of unresolved issues and either a discussion of how such issues will be resolved prior to commencement of the action, or what overriding reasons there are for proceeding without resolving the problems.

(O) The draft environmental impact statement shall contain a list identifying all governmental agencies, other organizations and private individuals consulted in preparing the statement, and the identity of the persons, firms, or agencies preparing the statement, by contract or other authorization, shall be disclosed.

(P) The draft environmental impact statement shall contain reproductions of all substantive comments and responses made during the consultation process. A list of those consulted who had no comment shall be included in the draft environmental impact statement.

(Effective May 26, 1996)

2401-61-13 Content Requirements; Final EIS

The final environmental impact statement shall consist of:

(A) The draft environmental impact statement or a revision of the draft;

(B) Comments and recommendations received on the draft environmental impact statement either verbatim or in summary;

(C) A list of persons, organizations and public agencies commenting on the draft environmental impact statement;

(D) The responses of the applicant to significant environmental points raised in the review and consultation process. The response of the applicant to comments received may take the form of a revision of the draft environmental impact statement or may be an attachment to the draft environmental impact statement. The response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major issues raised when the applicant's position is at variance with recommendations and objections raised in the comments shall be addressed in detail giving reasons why specific comments and suggestions were not accepted, and factors of overriding importance warranting an override of the suggestions.

(Effective May 26, 1996)

2401-61-14 EIS Style

In developing the environmental impact statement, preparers shall make every effort to convey the required information succinctly in a form easily understood, both by members of the public and by public decision makers, giving attention to the substance of the information conveyed rather than to the particular form, length, or detail of the statement. The scope of an environmental impact statement may vary with the scope of the proposed action and its impact. Data and analyses in an environmental impact statement shall be commensurate with the importance of the impact, and less important material may be summarized, consolidated, or simply referenced. An environmental impact statements shall

indicate at appropriate points in the text any underlying studies, reports, and other information obtained and considered in preparing the statement, including cost benefit analyses and reports required under other legal authorities. Care shall be taken to concentrate on important issues and to ensure that an environmental impact statement remains an essentially self-contained document, capable of being understood by the reader without the need for undue cross-reference.

(Effective May 26, 1996)

FILING AND DISTRIBUTION OF FINAL AND DRAFT EIS

2401-61-15 Filing of EIS

(A) The applicant shall file the original (signed) draft environmental impact statement with the Board, along with ten copies of the draft environmental impact statement. The Board may require the applicant to submit extra copies if it deems necessary.

(B) The applicant shall file the original (signed) final environmental impact statement with the Board along with ten copies of the final environmental impact statement. The Board may require the applicant to submit extra copies if it deems necessary.

(Effective May 26, 1996)

2401-61-16 Distribution

(A) The Board shall be responsible for the advertisement of the notice of availability of the draft and final environmental impact statement pursuant to Section 2401-61-23 of these regulations, and for distribution of the draft and final environmental impact statement for agency and public review.

(B) The Board shall develop a list of reviewers (i.e., persons and agencies with jurisdiction or expertise in certain areas relevant to various actions) and a list of public repositories where copies of an environmental impact statement shall be available. To the extent possible, the Board shall make copies of the environmental impact statement available to individuals requesting an environmental impact statement.

(C) The Board's distribution list may be developed cooperatively among the applicant and the Board provided the Board shall be responsible for determining the final list. The applicant may directly distribute any portion of the required copies to those on the list, provided that the Board is informed at the time the environmental impact statement is filed.

(Effective May 26, 1996)

2401-61-17 Public Review and Comment

(A) The period for public review and for submitting written comments shall commence as of the date

notice of availability of the draft* environmental impact statement is advertised and shall continue for a period of *thirty days*. *Written comments to the Board, with a copy of the comments to the applicant, shall be received by the Board, or postmarked, within said thirty-day period. Any late comments need not be considered or responded to by the applicant or the Board, unless the Board requires a response from the applicant.

(B) The applicant shall respond in writing to the comments received or postmarked during the thirty-day review period and incorporate or append the comments and responses in the final environmental impact statement within thirty days from the end of the thirty-day review period. The response to comments shall include:

(1) Point-by-point discussion of the validity, significance, and relevance of comments; and
(2) Discussion as to how each comment was evaluated and considered in planning the proposed action.

(C) The response shall endeavor to resolve conflicts, inconsistencies, or concerns. Comments and responses shall be incorporated or appended in the final environmental impact statement.

(D) At the board's discretion, the applicant and/or the Board shall hold public hearings regarding the project within thirty days of the date of the notice of availability of the draft and final environmental impact statements.

(Effective May 26, 1996)

**(Amendment Effective November 6, 1998)*

2401-61-18 Acceptability

(A) Acceptability of a draft or final statement shall be evaluated on the basis of whether the statement, in its completed form, represents an informational instrument which fulfills the definition of an environmental impact statement and adequately discloses and describes all identifiable environmental impacts and satisfactorily responds to review comments.

(B) A statement shall be deemed to be an acceptable document only if all of the following criteria are satisfied:

(1) Procedures for assessment, consultation process, a review responsive to comments, and the preparation and submission of the statement, have all been completed satisfactorily as specified in these regulations;

(2) Content requirements described in this chapter have been satisfied; and

(3) Comments submitted during the review process have received responses satisfactory to the Board, and have been incorporated or appended, at the discretion of the applicant to the statement.

(C) For actions where the national government, state government, its boards, agencies or commissions are applicants, the applicant shall prepare the environmental impact statement in accordance with

24 PNC Sections 141 through 143, and these regulations.

(1) In all cases involving state funds or lands, both the governor or an authorized representative and the Board shall have final joint authority to accept the environmental impact statement.

(2) In cases involving only national government funds or lands, the President or an authorized representative and the Board shall have joint final authority to accept the environmental impact statement.

(3) In the event that the action involves both state and national government lands or funds, the President or an authorized representative and the Board shall have joint final authority to accept the environmental impact statement.

(D) Upon acceptance or non-acceptance of the environmental impact statement, a notice shall be issued by the Board and served on the applicant. For any non-accepted environmental impact statement, the notice shall contain specific findings and reasons for non-acceptance. The Board shall publish the determination of acceptance or non-acceptance as described in section 2401-61-23 of these regulations. Acceptance of a required statement shall be a condition precedent to the use of state or national government lands or funds in implementing the proposed action.

(Effective May 26, 1996)

SUPPLEMENTAL STATEMENTS

2401-61-19 General

A statement that is accepted with respect to a particular action is usually qualified by its size, scope, location and timing, among other things. If there is any major change in any of these characteristics, the original statement shall no longer be completely valid because an essentially different action would be under consideration. As long as there is no substantial change in a proposed action, the statement associated with that action shall be deemed to comply with these regulations. If there is any major change, a supplemental statement shall be prepared and reviewed as provided by these regulations.

(Effective May 26, 1996)

2401-61-20 Determination of Applicability

The Board shall be responsible for determining whether a supplemental statement is required. Applicants shall prepare for public review supplemental statements whenever the proposed action for which a statement was accepted has been modified to the extent that new or different environmental impacts are anticipated. A supplemental statement shall be warranted when the scope of an action has been substantially increased,

when the intensity of environmental impacts will be increased, when the mitigating measures originally planned are not to be implemented, or where new circumstances or evidence have brought to light different or likely increased environmental impacts not previously addressed.

(Effective May 26, 1996)

2401-61-21 Contents

The contents of the supplemental statement shall be the same as required by this chapter for the environmental impact statement and may incorporate by reference unchanged material from the same; however, in addition, it shall fully document the proposed changes from the original environmental impact statement and completely and thoroughly discuss the environmental impact statement process followed for these changes, the positive and negative aspects of these changes, and shall comply with the content requirements of sections 2401-61-08 through 2401-61-18, inclusive, as they relate to the changes.

(Effective May 26, 1996)

2401-61-22 Procedures

The requirements of consultation, filing public notice, distribution, public review, comments and response, and acceptance procedures, shall be the same for the supplemental statement as is prescribed by this Chapter for an environmental impact statement.

(Effective May 26, 1996)

PUBLIC NOTICE AND IMPACT FEES

2401-61-23 Public Notice and Records

(A) All environmental impact statements and other documents prepared under these rules shall be made available for inspection by the public during established office hours.

(B) The Board shall inform the public by radio announcement of:

(1) Notices filed by the Board of determinations that environmental impact statements are required or not required.

(2) The availability of such environmental impact statements for review and comment regarding the acceptance or non-acceptance of statements; and

(3) Any other instance cited in these regulations requiring public notice.

2401-61-24 Environmental Impact Fees

(A) Whether or not an action requires an environmental impact statement, the applicant shall pay a non-refundable Environmental Impact Fee. The Environmental Impact Fee shall be paid within thirty

days after the applicant has obtained all necessary permits to commence an action, but prior to the commencement of any construction relative to that action. The Environmental Impact Fee shall be paid by check, made payable to the National Treasury of the Republic of Palau, and in accordance with the following fee schedule:

(1) No fee for Republic of Palau national government or state government projects so long as such projects are 100% financed by national or state government funds. In the event of a joint venture between the Palau national government or a state government and a third party, the project shall be subject to the fees stated in Section 2401-61-24(A)(3) herein.

(3) All other fees for projects shall be based upon the greater of:

(a) An appraisal of construction costs for structures affixed to the ground pursuant to the following schedule:

FEE AMOUNT	SIZE OF PROJECT
100.00	Less than or equal to \$ 50,000.00
200.00	Less than or equal to \$100,000.00
750.00	Greater than \$100,000 but less than \$500,000.00
1,500.00	Greater than \$500,000 but less than \$100,000.00

\$For each \$1 million increment in the cost/size of the project there shall be assessed an additional fee of \$1,500.00 up to maximum total fee of \$300,000.00;

or,

b) A fee which is generated by the Board after an examination of the project's environmental impact statement.

(B) Division A of this Section shall not take effect until the Palau Environmental Quality Protection Act (RPPL No. 1-58) has been amended to reflect same.

(Effective May 26, 1996)

MISCELLANEOUS PROVISIONS

2401-61-25 Severability

If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application; and to this end, the provisions of this Chapter are declared to be severable.

(Effective May 26, 1996)

2401-61-26 Repealer

The regulations contained herein shall replace the Republic of Palau Environmental Quality Protection Board Environmental Impact Statement Regulations currently in effect in the Republic of Palau.

(Effective May 26, 1996)

2401-61-27 Protected Areas

*Any activity subject to the provisions of this Chapter shall comply with the terms, conditions, provisions and management plans for any National, State or traditional conservation area, preserve or other protected area as established by law.**

**(Amendment Effective March 12, 1999)*