

ENROLLMENT(S)



COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 8-45

"District of Columbia Public Utility Environmental Impact Statement Requirement Act of 1989".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 8-208 on first and second readings, June 27, 1989, and July 11, 1989, respectively. Following the signature of the Mayor on August 1, 1989, this legislation was assigned Act No. 8-78, published in the August 11, 1989, edition of the D.C. Register, (Vol. 36 page 5779) and transmitted to Congress on August 8, 1989 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 8-45, effective October 19, 1989.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

September 6,7,8,11,12,13,14,15,18,19,20,21,22,25,26,27,28,29

October 2,3,4,5,6,10,11,12,13,16,17,18

OCT 19 1989

AN ACT

D.C. ACT 8 - 78

Codification,
New Chapter 19 of
Title 43
District of Columbia Code
(1990 Supplement)

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUG 0 1 1989

To require a public utility to prepare an environmental impact statement if it proposes an action that, if implemented, would be likely to impact on the quality of the environment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Public Utility Environmental Impact Statement Requirement Act of 1989".

Sec. 2. Purpose.

The purpose of this act 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 act, before application is made to the Department of Consumer and Regulatory Affairs for a permit, and the District of Columbia Environmental Policy Act of 1989.

New
Section
43-1901

Sec. 3. Definitions.

For the purposes of this act, the term:

New
Section
43-1902

(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 utility service;
- (F) The extension or replacement of a gas distribution facility;
- (G) The extension or replacement of a telephone line as defined in paragraph 1 of section 8 of Chapter 150 of An Act Making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 976; D.C. Code, sec. 43-218) ("Public Utilities Act"); and
- (H) The installation, repair, or replacement of equipment or a device identified in paragraph 1 of section 8 of Chapter 150 of the Public Utilities Act (37 Stat. 975; D.C. Code, sec. 43-214), with the exception of an electric generating facility or overhead transmission line of over 69,000 volts.

(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.

Sec. 4. 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

New
Section
43-1903

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 act, 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.

(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 the effective date of this act, the public utility shall prepare and submit an environmental impact statement within 30 days of the effective date of this act. To the maximum extent practicable, the statement shall rely on environmental information available on the effective date of this act. 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 section 4(a) or to enable the Commission to make its decision concerning the reasonable safety and adequacy of the proposed facility.

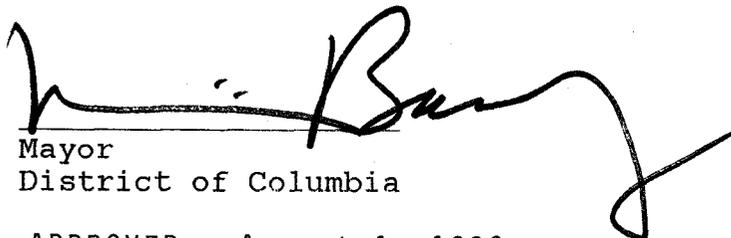
Sec. 5. Rules.

The Commission shall, pursuant to title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Code, sec. 1-1501 et seq.), issue proposed rules to implement the provisions of this act.

New
Section
43-1904

Sec. 6. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(2) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-147(c)(2)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED: August 1, 1989



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Eight

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: Bill 8-208

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 6-27-89

VOICE VOTE: Approved

Recorded vote on request

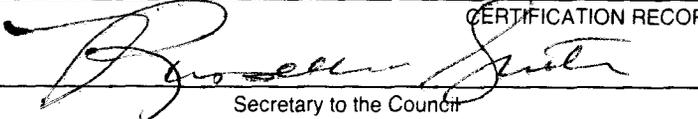
Absent: Wilson and Thomas

ROLL CALL VOTE: — RESULT _____ (_ / _ / _)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD


 Secretary to the Council

7-17-89
 Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 7-11-89

VOICE VOTE: Approved

Recorded vote on request

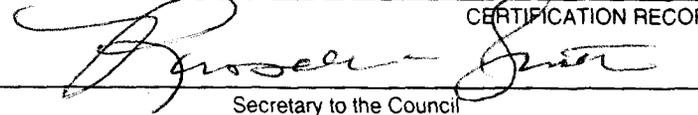
Absent: all present

ROLL CALL VOTE: — RESULT _____ (_ / _ / _)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD


 Secretary to the Council

7-17-89
 Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT _____ (_ / _ / _)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date