



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 19 2007

MEMORANDUM

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

SUBJECT: Errata for the Policy and Procedures for the Review
of Federal Actions Impacting the Environment

FROM: Anne Norton Miller, Director
Office of Federal Activities 

TO: Regional 309 Review Coordinators
Regional 309 Division Directors
Headquarters Contacts for Nationally Significant Comment Letter Reviews

On March 30, 2007, the Office of Enforcement and Compliance Assurance (OECA), in consultation with the Office of General Counsel (OGC) and the regional offices, completed a review of the EPA's *Policy and Procedures for the Review of Federal Actions Impacting the Environment* (the 309 Manual). The review concluded with the consensus view that the procedures detailed in the 309 Manual are consistent with NEPA case law and regulations and guidance from the Council on Environmental Quality, and that the procedures continue to be appropriate for our reviews of other federal agencies' NEPA documents.

However, the review identified a few sections of the 309 Manual that needed to be updated; OECA committed to prepare and issue an errata sheet to identify and effect the necessary changes. With this in mind, I am pleased to circulate for your information and use, the errata sheet for the 309 Manual that we prepared in coordination with OGC and the regional offices. Keep in mind that this errata sheet (copy attached) must be used in conjunction with the 309 Manual.

Should you have any questions concerning the errata sheet and/or the 309 Manual, please feel free to call me at (202) 564-5400, or Bob Hargrove, Director of the NEPA Compliance Division, at (202) 564-7157.

Attachment

cc: Marcus Peacock
Granta Nakayama
Roger Martella
Jason Burnett

ERRATA

U.S. Environmental Protection Agency Policy and Procedures for the Review of Federal Actions Impacting the Environment

July 2007

General

- The “Office of External Affairs (OEA)” is replaced with the “Office of Enforcement and Compliance Assurance (OECA)”
- The “Management Information Unit (MIU)” and the “Federal Agency Liaison Division” are replaced with the “NEPA Compliance Division (NCD)”
- “COMDATE,” the “MIU data management system,” and the “MIU system” are replaced with the “Lotus Notes Environmental Impact Statement Tracking System (Lotus Notes Tracking System)”
- The “Office of Legislative Analysis (OLA)” is replaced with the “Office of Congressional and Intergovernmental Relations (OCIR)”
- “EIS’s” is replaced with “EISs”
- “FAL’s” is replaced with “FALs”
- “AR’s” is replaced with “ARs”
- “FONSI’s” is replaced with “FONSIIs”

If additional corrections are identified in a sentence in which any of the above corrections apply, this correction is specifically identified.

CHAPTER 2 – MANAGEMENT OF THE ENVIRONMENTAL REVIEW PROCESS

Page 2-1 Paragraph 2a Sentence 1	Each Federal Agency Liaison (FAL), working through their his/her Division Director and other appropriate elements within the OFA, has the following responsibilities:
Page 2-1 Paragraph 2a(2) Sentence 1	Provide management oversight of regional review actions carried out under the requirements of this Manual, and provide policy guidance on the Environmental Review Process to Headquarters program offices and regional Environmental Impact Statement (EIS) reviewers;
Page 2-2 Paragraph 2b(2) Sentence 1	The MIU NCD is responsible for preparing the following reports and maintaining the following database to inform EPA officials and the public of EIS's EISs and other Federal actions received by the EPA for review and comment.

Page 2-2 Paragraph 2b(2)(a) Paragraph title Sentences 1 and 2	COMDATE <u>Lotus Notes Environmental Impact Statement Tracking System</u> . This weekly computerized report contains a list of The Lotus Notes Environmental Impact Statement Tracking System (Lotus Notes Tracking System) contains information regarding all EIS's EISs filed, pursuant to 40 CFR Section 1506.9., during the previous week. COMDATE lists The Lotus Notes Tracking System includes , in part, the EIS title, official filing date, EPA control numbers; location, Federal Register notice date (40 CFR 1506.10(a)), date comments are due to the lead agency, and regional assignment.
Page 2-2 Paragraph 3 Sentence 2 and 3	Each EPA regional office will designate a regional environmental review coordinator (ERC) who has overall management responsibility for the Environmental Review Process in that region. It is the responsibility of the regional environmental review coordinator ERC to:
Page 2-3 Paragraph 5a Sentence 1	The term Environmental Review Coordinator (ERC) is used in this Manual to mean either a regional environmental review coordinator ERC or the OFA Division NCD Director managing FAL responsibilities for a particular action agency.

CHAPTER 3 – PRE-EIS REVIEW ACTIVITIES

Page 3-1 Paragraph 2a Sentence 1	The regional environmental review coordinator ERC and the FAL's FALs will establish and maintain contact at the appropriate levels of other agencies in order to foster an effective working relationship between agencies, to understand the agencies' programs and policies, and to be kept informed of projects of interest to the EPA.
Page 3-2 Paragraph 3b(3)(c) Sentence 1	Priority concerns identified in the Administrator's Agency Operating Guidance EPA Strategic Plan ; and
Page 3-3 Paragraph 4a Sentence 1	Under 40 CFR 1501.6, the lead agency may request any other Federal agency to serve as a cooperating agency if it has jurisdiction or special expertise (statutory responsibility, agency mission, or related program experience) regarding any environmental issue that should be addressed in the statement EIS .

CHAPTER 4 – REVIEW OF DRAFT ENVIRONMENTAL IMPACT STATEMENTS

Page 4-4 Paragraph 3f Sentence 1	The Section 404 Coordinator will serve as an associate reviewer AR for those projects for which an agency is seeking an exemption under Section 404(r), and shall concur with the EPA comment letter.
Page 4-4 Paragraph 3g(1) Sentence 2	EPA's comments on the draft EIS will serve as EPA's preliminary comments for the groundwater impact evaluation required conducted under Section 1424(e), which stipulates that no commitment to a project of Federal financial assistance may be made, if entered into for any project which the Administrator determines that a project has the potential to may contaminate a designated aquifer; through the recharge zone so as to create a significant hazard to public health. (Rules proposed to implement 1424(e) are found at 42 FR 51620, September 29, 1977.) (Regulations implementing section 1424(e) are at 40 CFR 149.)
Page 4-4 Paragraph 3g(2) Sentence 1	If it is preliminarily determined that a project may contaminate the aquifer through the a recharge zone so as to create a significant hazard to public health, the ERC will, in consultation with the regional drinking water staff prepare a briefing memorandum and comment letter for the Regional Administrator.

CHAPTER 6 – REVIEW OF FINAL EIS'S EISS

Page 6-1 Paragraph 2b(1) Sentences 1, 2, and 3	Unless a different deadline is officially established for receiving comments, EPA will respond to a final EIS within 30 days from the start of the official review wait period. The official EIS due dates are listed in COMDATE the Lotus Notes Tracking System . The PR will set internal deadlines to ensure EPA's comments are received within the official comment wait period.
Page 6-2 Paragraph 3b Sentence 2	When mitigation measures are recommended, the comment letter should suggest that the lead agency include these measures in their its Record of Decision, and, if appropriate, as specific conditions on of their its permits, or grants, or other approvals.
Page 6-3 Paragraph 3d(1)	The regional drinking water program staff will serve as an AR on the review of any EIS for a project potentially affecting a designated “sole source” aquifer and will be responsible for the preliminary

	determination of project compliance with the requirements of Section 1424(e) of the SDWA.
Page 6-3 Paragraph 4(2) Sentence 1	If a refferal referral is not warranted, but the EIS contains insufficient inadequate information to assess potentially significant environmental impacts of the proposed action, a request should be made for the agency to prepare a supplemental EIS.

CHAPTER 7 – MONITORING AND FOLLOW-UP

Page 7-1 Paragraph 2a(3) Sentence 1	The lead agency has included all agreed upon measures as conditions in of grants, permits, or other approvals, where appropriate.
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CHAPTER 8 – REVIEW OF DOCUMENTS OTHER THAN EIS'S EISS

Page 8-1 Paragraph 2a(2) Sentence 1	The Office of Legislative Analysis (OLA) Office of Congressional and Intergovernmental Relations (OCIR) , within the Office of External Affairs, will have lead responsibility on all non-EIS legislation reviews and will determine when the EPA will prepare formal comments on legislation; and
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CHAPTER 9 – REFERRALS TO THE COUNCIL ON ENVIRONMENTAL QUALITY

Page 9-1 Paragraph 1 Sentence 1	The EPA authority for referring proposed regulations or major Federal actions to the Council on Environmental Quality CEQ (40 CFR 1504 and Section 309 of the Clean Air Act) will be used only when significant environmental issues are involved and only after every effort to resolve these issues at the agency level has been exhausted.
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