

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

OCT 7 1977

Honorable Douglas M. Costle
Administrator
U.S. Environmental Protection Agency
Washington, D.C. 20460

Re: Transfer of Responsibilities
to the Environmental Protection
Agency

Dear Doug:

As you know, the Reorganization Plan for the Executive Office of the President will transfer several responsibilities from the Council on Environmental Quality to the Environmental Protection Agency. These include: (1) the Council's duty under Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93-577) to evaluate the adequacy of research efforts on energy conservation and the environmental impacts of nonnuclear energy development including public hearings and the preparation of reports on the evaluation; and (2) certain administrative and oversight responsibilities related to the National Environmental Policy Act of 1969. We will also be looking for assistance from your agency and the Department of Interior as well as other Federal agencies, in preparing future editions of the annual Environmental Quality Report. The purpose of this letter is to confirm these modifications in our respective responsibilities on the basis of staff level discussions between the two agencies.

We have discussed the transfer of responsibilities assigned us by Section 11 of the Non-Nuclear Energy Research and Development Act with Steve Gage, with whom we worked closely in carrying out this responsibility in the past. We believe that the transfer to his office can be accomplished with a minimum of disruption.

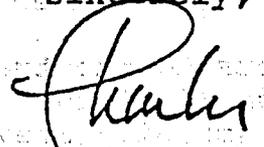
With respect to the transfer of the NEPA responsibilities, I am enclosing a Memorandum of Agreement for your signature which has been worked out by our respective staffs explaining our mutual understanding on the issues involved. Please return a copy of the signed agreement to us if it is satisfactory. We will continue to work with your agency and, in particular, with the Office of Federal Activities, to complete arrangements for a smooth transition. We have also extended an offer to provide intensive training assistance to your staff regarding these NEPA duties.

With respect to the Annual Report, the Council will require the assistance of other Federal agencies in preparing the report, although CEQ will continue to supervise and edit the report. We would expect to work especially closely with your agency and the Interior Department in the Annual Report preparation and will be in touch with you in the coming months as we begin to plan next year's report.

We anticipate that, with the concurrence of OMB, in transferring the N-NERD and NEPA responsibilities to you we will also be transferring 6 permanent positions (2 associated with N-NERD, 4 with NEPA). In discussions with your staff, we have agreed that 2 of the NEPA positions would be transferred along with the personnel responsible for filing EISS and other mechanical NEPA requirements at the time the responsibility is officially transferred to EPA (planned for December 1). The other 4 positions would be transferred after they are vacated by CEQ personnel (over the next few months).

I trust these arrangements are satisfactory to you, and look forward to working with you over the coming months to assure that these important responsibilities are transferred in accord with the President's plan.

Sincerely,



CHARLES WARREN
Chairman

Enclosure

MEMORANDUM OF AGREEMENT NO. 1
Between The Council on Environmental Quality
and The Environmental Protection Agency

Purpose

This memorandum represents the understanding between the Council on Environmental Quality (CEQ) and the Environmental Protection Agency (EPA) on the allocation of responsibilities between these two agencies for assuring the government-wide implementation of the National Environmental Policy Act of 1969 (NEPA). As part of the reorganization of the Executive Office of the President (Reorganization Plan No. 1 of 1977), CEQ will transfer certain activities to EPA. The portions of the Reorganization Plan relating to this transfer are found in the President's Message of July 15, 1977 (Tab A) and the White House Fact Sheet accompanying the Plan (Tab B). The Reorganization Plan itself contains no mention of the subjects treated in this memorandum because the activities that CEQ is transferring to EPA do not involve any changes in current law, including statutes, executive orders or other public laws.

Background on Agencies' Responsibilities

CEQ's charter authorities are NEPA, the Environmental Quality Improvement Act of 1970, and Executive Order 11514 (Tabs C, D, E, respectively). EPA's basic charter is found in Reorganization Plan No. 3 of 1970 (Tab F). With respect to NEPA, the major additional authority beside these laws is Section 309 of the Clean Air Act, as amended (Tab G).

In brief, CEQ's main functions are: Presidential advice and policy development, federal agency oversight, interagency coordination, and analysis of overall conditions and trends affecting environmental quality. EPA is a regulatory agency administering most federal pollution control and enforcement, environmental grant programs, and basic ecological research. CEQ is located in the Executive Office of the President (EOP) to advise and assist the President on a close and continuing basis with respect to overall environmental policies, priorities, and actions cutting across several agencies. EPA is an independent line agency in the executive branch with day-to-day administrative responsibilities for implementing many environmental protection laws.

Transfer of Functions Under EOP Reorganization Plan

As a result of the reorganization of the Executive Office of the President, CEQ will transfer to EPA certain functions the Council has performed over the years, pursuant to Presidential direction and approval. CEQ will continue to exercise NEPA oversight responsibility and issue regulations to implement NEPA, as required by Executive Order 11514, as amended. CEQ will continue to be the Executive branch authority with respect to the application of its regulations and the authoritative interpretation of the requirements of NEPA.

The functions to be transferred are operational duties associated with the administrative aspects of the Environmental Impact Statement process (EIS) as follows:

1. Routine responses to citizens and Congressional inquiries on individual EISs and projects.
2. Routine review of individual environmental impact statements (EISs).
3. Mechanics associated with EISs, including preparation and publication of daily and weekly lists and notices in Federal Register, monthly publication of 102 Monitor, and maintaining EIS availability to public.

These duties are elaborated in more detail below. They include the following responsibilities.

1. EIS Information - responding to requests for information from public agencies, the Congress, citizens, and public and private organizations on

A. the mechanical requirements for the EIS process, such as filing and circulation requirements, which include the requisite time periods for each part of the EIS process, types of documents covered and their circulation, current citations to agency regulations and procedures, and the names of agency officials responsible for EISs in their respective agencies;

B. the status of EISs; the sources and availability of EISs; the schedule and the agencies responsible for EIS documents likely to be or being prepared and reviewed.

C. issues regarding individual EISs. In response to inquiries regarding EISs or other appropriate documents in the EIS process, EPA will explain, as necessary, the criteria for determining:

1. Whether such a document is required;
2. When the document is required;
3. Who is responsible for preparation and filing;
4. What its proper scope should be;
5. Who should review and comment on it;
6. When to hold public hearings, if appropriate;
7. What kinds of alternatives and measures to minimize environmental harm are appropriate to include;
8. How much needs to be known in order to proceed with writing the document or taking an action.

If relevant criteria for responding to inquiries are not explicitly in CEQ or agency regulations, however, or if an inquiry poses a novel, precedential, or as yet unsettled interpretation of CEQ guidelines/regulations, then EPA shall consult with CEQ prior to any response to the inquiry. CEQ shall inform EPA of any such interpretations or supplementary guidance CEQ may provide in dealing with problems related to the EIS requirement and CEQ regulations.

2. EIS Review - EPA will review and comment on every environmental impact statement to consider the adequacy of the statement, and the acceptability of the environmental impacts of proposals, pursuant to NEPA and Sec. 309 of the Clean Air Act. CEQ will not, as a routine matter, review individual impact statements, although CEQ may review them from time to time for specific purposes, such as monitoring compliance with its regulations or improving federal programs or decisions. This general oversight role is intended by Sec. 102(2)(C) of the Act which requires statements "to be made available to the President, the Council on Environmental Quality, and to the public."

If an environmental impact statement or a proposal raises grave questions that a proposed federal action will contravene the national environmental policy as stated in NEPA, and if the matter is referred to CEQ for resolution (under public procedures specified by CEQ), then CEQ may make its own independent evaluation of any environmental impact statements as part of its effort to resolve the issues, as indicated by the Council's procedures for referrals under NEPA and Section 309.

3. EIS Filing Responsibilities. CEQ will transfer its EIS filing and related operations to EPA. EPA will continue the present cumulative filing and accession numbers unless CEQ and EPA mutually agree upon the use of another system. EPA will maintain a complete cumulative library and index of those documents required to be filed as part of the EIS process pursuant to CEQ regulations and will provide CEQ with one file copy of each such document. EPA will also continue the current EIS microfiche project unless CEQ consents to the use of another approach. EPA will also be responsible for the publication of notices in the Federal Register, as provided by CEQ guidelines/regulations, including filing dates for EISs and related documents. EPA will continue Federal Register publication on each Friday of a list of EISs received the previous week; EPA will send one copy of this list directly to CEQ at the same time the list is sent to the Register, unless CEQ and EPA mutually agree upon a different arrangement. CEQ will provide technical advice and assistance as requested by EPA, to establish the requisite information management and filing systems.

The design or modification of any processing, filing, and retrieval systems will assure the efficient continuation of the above services, unless changes are mutually agreed upon by CEQ and EPA. EPA will promptly provide CEQ staff with copies of documents that may be requested.

EPA will publish the 102 Monitor, a monthly journal which lists the availability of EISs, announces significant NEPA policies, and provides such other information as CEQ and EPA deem essential to the efficient administration of NEPA's procedures. EPA will have general editorial control over the 102 Monitor, but will consult with CEQ one week prior to the publication of any issue regarding the material to be included in the Monitor. EPA will make every effort to accommodate material submitted by CEQ for inclusion. The continuation of the Monitor will be by mutual agreement of EPA and CEQ, in light of periodic evaluation of the Monitor.

Further Responsibilities - The role and responsibility of EPA will be explained in CEQ's regulations (or attachments thereto) issued pursuant to E.O. 11514, which will be prepared by CEQ in consultation with EPA. The regulations may augment this agreement as needed. A Second Memorandum of Agreement between CEQ and EPA governs the personnel matters associated with this transfer (Tab H).

Pursuant to NEPA Section 102(2)(I) and E.O. 11514 Section 2(f) and (g), EPA will also assist CEQ to ensure the effective implementation of the EIS process. This could include, for example, assisting in determining the need for a particular EIS, facilitating interagency EIS cooperation and providing similar instructions or advice to federal agencies.

CHARLES WARREN
Chairman
Council on Environmental
Quality

DOUGLAS M. COSTLE
Administrator
Environmental Protection
Agency

OCT 7 1977

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

OCT 28 1977

MEMORANDUM FOR NEPA LIAISONS AND GENERAL COUNSELS

SUBJECT: Transfer of Environmental Impact Statement Receipt
and Filing from CEQ to EPA.

The receipt and filing of Environmental Impact Statements (EISs) will be transferred from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA) next month, under the President's reorganization plan for the Executive Office of the President (Reorganization Plan No. 1 of 1977, July 15, 1977). Effective Monday, December 5, 1977, federal agencies should no longer send EISs to CEQ. Instead agencies should deliver ten (10) copies of all draft, final or supplemental EISs filed pursuant to Section 102(2)(C) of the National Environmental Policy Act directly to:

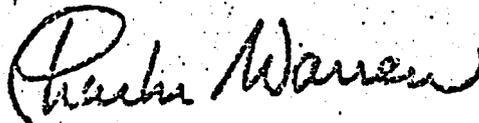
Environmental Protection Agency
Room 537, West Tower
401 M Street, S.W.
Washington, D.C. 20460

Mailed copies should be sent to Mail Code A-104 at the same address.

Beginning on December 16, 1977, EPA will publish the regular weekly Federal Register notices indicating receipt of EISs and the relevant comment periods. EPA will also publish the 102 Monitor beginning in January.

CEQ will continue its NEPA oversight and policy guidance to agencies. However, general information and specific questions from agencies and the public about technical compliance with environmental impact statement requirements and CEQ Guidelines should be directed to EPA after December 2.

Please inform all regional and branch offices of these changes. Any questions should be directed to Sally Mallison at CEQ 202/633-7077 or Thomas Sheckells at EPA, 202/755-0790.



CHARLES WARREN
Chairman



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

18 NOV 1977

OFFICE OF THE
ADMINISTRATOR

MEMORANDUM FOR NEPA LIAISONS

SUBJECT: CEQ Transfer of Environmental Impact Statement
Receipt and Filing Responsibilities to EPA

On October 28, 1977, Charles Warren, Chairman, Council on Environmental Quality, informed you that in accordance with the President's Reorganization Plan No. 1, the Office of Federal Activities (OFA), Environmental Protection Agency will be the official recipient for all copies of environmental impact statements (EIS's), effective December 5, 1977. OFA recognizes the many problems which could occur when a major transition of responsibility takes place. Therefore many of the existing filing procedures will remain the same. We have made some minor changes which are discussed below. If you have any questions regarding any aspect of this transition, please feel free to contact Ms. Kathi Weaver of my staff on 755-0780 or 755-0790.

The clarifications are as follows:

1. To reconfirm, all EIS's for filing should be mailed or delivered to:

Director, Office of Federal Activities (Mail Code A-104)
Environmental Protection Agency
Room 537 West Tower
Waterside Mall S.W., Washington, DC 20460

2. The Council on Environmental Quality's October 28, 1977 Memorandum requested ten (10) copies of each EIS be filed with EPA. However, we recognize the inconvenience this change could have on each agency's internal procedures. Therefore, we request that five (5) copies of each EIS be filed at the above address and five (5) copies should be mailed to the appropriate EPA Office (headquarters or regional) responsible for EPA's review pursuant to Section 309 of the Clean Air Act. A copy of the EPA Regional Office addresses is attached.

3. The deadline for receipt of EIS's will be 3:00 pm on each Friday. All EIS's received within this deadline will be processed and public notice of availability will be published in the Federal Register by OFA on the following Friday.

4. Any request for a shorter review period on draft or final EIS's should be directed in writing to the Director, OFA. Please include the name and phone number of your responsible official. All requests will be reviewed and responded to within 2 working days.

5. Previously, the CEQ received multiple copies of all comment letters on draft and final EIS's. OFA requests that only one copy of each final EIS comment letter be submitted. The agency originating the EIS is required to maintain copies of all comments received and these comment letters should be available for public inspection.

We appreciate your cooperation during this transition and welcome any questions or suggestions you may have.

Peter L. Cook

Peter L. Cook
Acting Director
Office of Federal Activities

Attachment

Distribution List for Environmental Impact Statements

Address

State Jurisdiction

EIS Coordinator, Region 1
US Environmental Protection Agency
John F. Kennedy Federal Building
Boston, Massachusetts 02203

Maine
New Hampshire
Vermont
Massachusetts
Connecticut
Rhode Island

EIS Coordinator, Region 2
US Environmental Protection Agency
26 Federal Plaza
New York, New York 10007

New York
New Jersey
Puerto Rico
Virgin Islands

EIS Coordinator, Region 3
US Environmental Protection Agency
Curtis Building
6th and Walnut Streets
Philadelphia, Pennsylvania 19106

Pennsylvania
Maryland
Delaware
West Virginia
Virginia
District of Columbia

EIS Coordinator, Region 4
US Environmental Protection Agency
345 Courtland Street NE
Atlanta, Georgia 30308

Kentucky
North Carolina
South Carolina
Georgia
Florida
Alabama
Tennessee
Mississippi
Canal Zone

EIS Coordinator, Region 5
US Environmental Protection Agency
230 South Dearborn Street
Chicago, Illinois 60604

Michigan
Wisconsin
Illinois
Indiana
Ohio
Minnesota

EIS Coordinator, Region 6
US Environmental Protection Agency
1201 Elm Street
Dallas, Texas 75270

New Mexico
Oklahoma
Arkansas
Texas
Louisiana

Address

State Jurisdiction

EIS Coordinator, Region 7
US Environmental Protection Agency
1735 Baltimore Street
Kansas City, Missouri 64108

Nebraska
Iowa
Kansas
Missouri

EIS Coordinator, Region 8
US Environmental Protection Agency
1860 Lincoln Street
Denver, Colorado 80203

Montana
North Dakota
South Dakota
Wyoming
Utah
Colorado

EIS Coordinator, Region 9
US Environmental Protection Agency
215 Fremont Street
San Francisco, California 94108

California
nevada
Arizona
Hawaii
American Samoa
Guam
Trust Territory of the
Pacific Islands
Wake Island

EIS Coordinator, Region 10
US Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 98101

Washington
Oregon
Idaho
Alaska

Director, Office of Federal Activities
US Environmental Protection Agency
Room 537, West Tower, Waterside Mall
401 M Street, SW
Washington, DC 20460

Regulatory EIS's
Programatic EIS's
Multi-Region EIS's