

Environmental Protection Agency

§ 6.509

the entire wastewater treatment system of which the component is a part; and

(iii) Not be highly controversial.

(c) *Requests for partitioning.* The applicant's or State's request for partitioning must contain the following:

(1) A description of the discrete component proposed for construction before completing the environmental review of the entire facilities plan;

(2) How the component meets the above criteria;

(3) The environmental information required by § 6.506 of this subpart for the component; and

(4) Any preliminary information that may be important to EPA in an EIS determination for the entire facilities plan (§ 6.509).

(d) *Approval of requests for partitioning.* The responsible official shall:

(1) Review the request for partitioning against all requirements of this subpart;

(2) If approvable, prepare and issue a FNSI in accordance with § 6.508;

(3) Include a grant condition prohibiting the building of additional or different components of the entire facilities system(s) in the planning area as described in § 6.502(b)(3)(i).

[50 FR 26317, June 25, 1985, as amended at 51 FR 32612, Sept. 12, 1986]

§ 6.508 Finding of No Significant Impact (FNSI) determination.

(a) *Criteria for producing and distributing FNSIs.* If, after completion of the environmental review, EPA determines that an EIS will not be required, the responsible official shall issue a FNSI in accordance with §§ 6.105(f) and 6.400(d). The FNSI will be based on EPA's independent review of the preliminary environmental assessment and any other environmental information deemed necessary by the responsible official consistent with the requirements of § 6.506(c). Following the Agency's independent review, the environmental assessment will be finalized and either be incorporated into, or attached to, the FNSI. The FNSI shall list all mitigation measures as defined in § 1508.20 of this title, and specifically identify those mitigation measures necessary to make the recommended

alternative environmentally acceptable.

(b) *Proceeding with grant awards.* (1) Once an environmental assessment has been prepared and the issued FNSI becomes effective for the treatment works within the study area, grant awards may proceed without preparation of additional FNSIs, unless the responsible official later determines that the project or environmental conditions have changed significantly from that which underwent environmental review.

(2) For all environmental assessment/FNSI determinations:

(i) That are five or more years old on projects awaiting Step 2+3 or Step 3 grant funding, the responsible official shall re-evaluate the project, environmental conditions and public views and, prior to grant award, either:

(A) *Reaffirm*—issue a public notice reaffirming EPA's decision to proceed with the project without revising the environmental assessment;

(B) *Supplement*—update information and prepare, issue and distribute a revised EA/FNSI in accordance with §§ 6.105(f) and 6.400(d); or

(C) *Reassess*—withdraw the FNSI and publish a notice of intent to produce an EIS followed by the preparation, issuance and distribution of the EIS/ROD.

(ii) That are made on projects that have been awarded a Step 2+3 grant, the responsible official shall, at the time of plans and specifications review under § 35.2202(b) of this title, assess whether the environmental conditions or the project's anticipated impact on the environment have changed and, prior to plans and specifications approval, advise the Regional Administrator if additional environmental review is necessary.

[51 FR 32612, Sept. 12, 1986]

§ 6.509 Criteria for initiating Environmental Impact Statements (EIS).

(a) *Conditions requiring EISs.* (1) The responsible official shall assure that an EIS will be prepared and issued when it is determined that the treatment works or collector system will cause any of the conditions under § 6.108 to exist, or when

(2) The treated effluent is being discharged into a body of water where the present classification is too lenient or is being challenged as too low to protect present or recent uses, and the effluent will not be of sufficient quality or quantity to meet the requirements of these uses.

(b) *Other conditions.* The responsible official shall also consider preparing an EIS if: The project is highly controversial; the project in conjunction with related Federal, State, local or tribal resource projects produces significant cumulative impacts; or if it is determined that the treatment works may violate Federal, State, local or tribal laws or requirements imposed for the protection of the environment.

§6.510 Environmental Impact Statement (EIS) preparation.

(a) *Steps in preparing EISs.* In addition to the requirements specified in subparts A, B, C, and D of this part, the responsible official will conduct the following activities:

(1) *Notice of intent.* If a determination is made that an EIS will be required, the responsible official shall prepare and distribute a notice of intent as required in §6.105(e) of this part.

(2) *Scoping.* As soon as possible, after the publication of the notice of intent, the responsible official will convene a meeting of affected Federal, State and local agencies, or affected Indian tribes, the grantee and other interested parties to determine the scope of the EIS. A notice of this scoping meeting must be made in accordance with §6.400(a) and 40 CFR 1506.6(b). As part of the scoping meeting EPA, in cooperation with any delegated State, will as a minimum:

(i) Determine the significance of issues for and the scope of those significant issues to be analyzed in depth, in the EIS;

(ii) Identify the preliminary range of alternatives to be considered;

(iii) Identify potential cooperating agencies and determine the information or analyses that may be needed from cooperating agencies or other parties;

(iv) Discuss the method for EIS preparation and the public participation strategy;

(v) Identify consultation requirements of other environmental laws, in accordance with subpart C; and

(vi) Determine the relationship between the EIS and the completion of the facilities plan and any necessary coordination arrangements between the preparers of both documents.

(3) *Identifying and evaluating alternatives.* Immediately following the scoping process, the responsible official shall commence the identification and evaluation of all potentially viable alternatives to adequately address the range of issues identified in the scoping process. Additional issues may be addressed, or others eliminated, during this process and the reasons documented as part of the EIS.

(b) *Methods for preparing EISs.* After EPA determines the need for an EIS, it shall select one of the following methods for its preparation:

(1) Directly by EPA's own staff;

(2) By EPA contracting directly with a qualified consulting firm;

(3) By utilizing a third party method, whereby the responsible official enters into "third party agreements" for the applicant to engage and pay for the services of a third party contractor to prepare the EIS. Such agreement shall not be initiated unless both the applicant and the responsible official agree to its creation. A third party agreement will be established prior to the applicant's EID and eliminate the need for that document. In proceeding under the third party agreement, the responsible official shall carry out the following practices:

(i) In consultation with the applicant, choose the third party contractor and manage that contract;

(ii) Select the consultant based on ability and an absence of conflict of interest. Third party contractors will be required to execute a disclosure statement prepared by the responsible official signifying they have no financial or other conflicting interest in the outcome of the project; and

(iii) Specify the information to be developed and supervise the gathering, analysis and presentation of the information. The responsible official shall have sole authority for approval and