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

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OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Interim OFA Program Guidance on Implementing the EPA Policy on Evaluating Health Risks to Children

FROM: Richard E. Sanderson
Director
Office of Federal Activities

TO: EPA Environmental Review Coordinators
Regions 1 - 10

Roger Janson, Region 1

Elizabeth Borowiec, Region 9

On October 20, 1995, the Administrator issued a memorandum setting out a new EPA policy on evaluating health risks to children (memorandum and policy statement attached). In her memorandum the Administrator requested that each office work with the EPA Science Policy Council (SPC) to ensure a smooth transition to the new policy. In response to the Administrator's request we are establishing this interim guidance for evaluating health risks to children within the NEPA/309 review process.

While the main area encompassed by the new policy focuses on health risk assessment, particularly for chemicals, the policy has broader implications for all EPA programs, including those related to the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. The language of the policy is:

> It is the policy of the U.S. Environmental Protection Agency (EPA) to consider the risks to infants and children consistently and explicitly as a part of risk assessments generated during its decision making process, including the setting of standards to protect public health and the environment. To the degree permitted by available data in

each case, the Agency will develop a separate assessment of risks to infants and children or state clearly why this is not done -- for example, a demonstration that infants and children are not expected to be exposed to the stressor under examination.

The new policy applies to risk assessments developed after November 1995; therefore, existing EPA standards may not be immediately affected by it. However, it is certainly possible that issues involving disparate impacts on children could arise in EISs related to the analysis of contaminants, landscape modifications or other factors. For this reason, the scope of EISs should be reviewed for disparate effects on children where it can be anticipated that such effects may exist.

OFA has consulted with the SPC to determine the implications of this new policy for the NEPA/309 program, and has worked out the following interim approach for implementing this policy.

1. Monitoring Agency Implementation:

OFA will request information from the SPC on completed risk assessments which indicate that specific contaminants have impacts which pose a greater risk for the health of children than for adults and will request that we be advised of any existing standards that have been altered after re-examination for impacts on children. This should provide a sound basis for addressing issues concerning EPA standards as they may be relevant in NEPA compliance activities and 309 reviews conducted by EPA. If questions are raised about EPA standards in the process of public and interagency review of NEPA documents, OFA will coordinate closely with the SPC and/or the appropriate media program office in developing our responses. Likewise, we will consult, as appropriate, with the SPC and/or the appropriate media program office when these issues come up in Section 309 reviews.

2. EPA NEPA Compliance Program:

The policy on evaluating risks to children obligates us to consider carefully whether there is a potential for disproportionate effects and, if so, to address this subject in NEPA documents prepared by EPA. In these cases where there may be an impact on children you should specifically address the question even if it turns out that the effects (on children) are not significant. However, if it is reasonably clear from the nature of the proposed action that there will be no disproportionate impact, there is no reason to require any discussion on this matter in the NEPA document.

3. EPA 309 Review Program:

In Section 309 EIS reviews EPA will pursue a similar approach to EPA's own NEPA compliance. In its reviews, EPA should consider whether there is a possibility of disproportionate impact on children related to the proposed action. If there is a reasonable basis for concern, EPA's 309 reviews should request that an analysis be included in the EIS (if not already included). If, however, it is clear from the nature of the action or other information that there will be no impact we should not insist on inclusion of language for its own sake. Where there are issues involving health risk to children reviewers may wish to coordinate with OFA, who will work with the SPC and/or the appropriate media program office to ensure that EPA comments reflect a consistent position based on current science.

OFA will continue to follow implementation of the new policy and will revise this interim guidance as necessary. If you have any comments, please fax them to Martin Topper at (202) 564-0070 or call him at 92020 564-7163.