



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

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

February 9, 2016

Public Comments Processing
Attn: FWS-HQ-NWRS-2012-0086
Division of Policy, Performance, and Management Programs
U.S. Fish and Wildlife Service, MS: BPHC
5275 Leesburg Pike
Falls Church, VA 22041-3803

To Whom It May Concern:

In accordance with our responsibilities under Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA), the Environmental Protection Agency (EPA) has reviewed the U.S. Fish and Wildlife Service's (FWS) 2015 Draft Programmatic Environmental Impact Statement (PEIS) for the National Wildlife Refuge System Revision of Regulations Governing Non-Federal Oil and Gas Activities (CEQ No. 20150349).

The EPA appreciates the efforts of the FWS to revise the National Wildlife Refuge System Revision of Regulations Governing Non-Federal Oil and Gas Activities that have been in effect for over 50 years. The EPA supports the revision of these regulations to reflect updated technical, regulatory and policy developments for oil and gas.

Based on our review of the draft PEIS, we offer the following comments for consideration to be included in the final PEIS:

- We continue to recommend that the final PEIS consider using EPA's Underground Injection Control Program permitting guidance specific to oil and gas hydraulic fracturing activities using diesel fuels. Although developed specifically for hydraulic fracturing where diesel fuels are used, many of the guidance's recommended practices are consistent with best practices for hydraulic fracturing in general, including those found in state regulations and model guidelines for hydraulic fracturing developed by industry and stakeholders. See "Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels: Underground Injection Control Program Guidance #84" at: http://www.epa.gov/sites/production/files/2015-05/documents/revise_dfhf_guid_816r14001.pdf
- We recommend that the final PEIS discuss whether there is potential for induced seismicity due to underground injection of produced/flowback waters and whether mitigation or management controls could be used to reduce or eliminate any problems

or concerns. Induced seismicity is an increasing concern in regions of the United States where the produced fluids and wastewaters from oil and natural gas production activities are being injected into the subsurface through deep disposal wells. See the National Underground Injection Control Technical Workgroup's report on injection-induced seismicity at: <http://www.epa.gov/sites/production/files/2015-08/documents/induced-seismicity-201502.pdf>

- We recommend that the final PEIS include a preliminary assessment of aquatic resources. Consider including inventories of existing wetlands and waters of the U.S. in the planning areas, including wetlands that are regulated under Section 404 of the CWA and wetlands that are determined to be non-jurisdictional and protected under Executive Order 11990 – Protection of Wetlands (May 24, 1977).

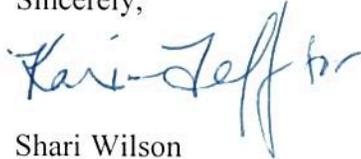
Since additional NEPA analysis will be needed for any plans of operation associated with oil and gas activities, the EPA recommends that the FWS:

- As appropriate, use the “Memorandum of Understanding (MOU) Regarding Air Quality Analyses and Mitigation for Federal Oil and Gas Decisions through the National Environmental Policy Act Process,” which the EPA, U.S. Department of Agriculture and U.S. Department of Interior entered into on June 11, 2011. Based on this MOU, future projects implemented under the FWS regulations may be subject to additional air quality analyses and project level mitigation. It may be appropriate to utilize the MOU’s agency stakeholder process to share reasonable and foreseeable development and emissions inventory information and to determine appropriate steps for the air quality analysis, such as quantitative air quality modeling.
- Disclose and consider the potential environmental effects of oil and gas development on air quality in the planning areas, and determine whether there is a need to revise management actions or develop stipulations to minimize the potential air quality impact of oil and gas development. This would include emissions of criteria air pollutants and hazardous air pollutants that can cause or contribute to human health impacts or impacts to Air Quality Related Values such as visibility, vegetation, water, fish, and wildlife. We also recommend that you identify potential mitigation measures, including control measures and design features such as equipment type and design requirements, emission standards or limitations, best management practices, dust suppression measures for unpaved roads and construction areas, add-on control technologies, and limitations on the density and/or pace of development.
- Consider the use of EJSCREEN, the EPA’s environmental justice screening and mapping tool that utilizes standard and nationally consistent data to highlight places that may have higher environmental burdens and vulnerable populations, when determining potential project-specific impacts to minority and low-income populations.
- Conduct appropriate greenhouse gas (GHG) and climate change analyses for subsequent project-specific operation actions and consider both the potential effects

of a proposed action on climate change, as indicated by its estimated greenhouse gas emissions, and the implications of climate change for the environmental effects of a proposed action. EPA recommends that you not compare project emissions to nationwide emission of GHGs because such comparisons do not reveal anything beyond the nature of climate change itself, i.e., the fact that diverse individual sources of emissions each make relatively small additions to global atmospheric GHG concentrations that collectively have a huge impact.

In summary, the EPA believes the actions proposed under the draft PEIS will result in reduced adverse impacts on resources. We have rated the proposed action, "LO" (Lack of Objections). A copy of the EPA's rating criteria is enclosed. If we can provide further explanation of our comments, I can be reached at 202-564-5400, or you can contact Julie Roemele of my staff at 202-564-5632.

Sincerely,

A handwritten signature in blue ink that reads "Shari Wilson". The signature is written in a cursive style with a long, sweeping tail on the letter "n".

Shari Wilson
Acting Director
Office of Federal Activities

Enc.

Summary of Rating Definitions and Follow-up Action

Environmental Impact of the Action

LO--Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC--Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO--Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU--Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1--Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2--Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3--Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.