§ 230.19 Comments.

District commanders shall request comments as set forth in 40 CFR 1503 and 1506.6. A lack of response may be presumed to indicate that the party has no comment to make.

(a) Time extensions. District commanders will consider and act on requests for time extensions to review and comment on an EIS based on timeliness of distribution of the document, prior agency involvement in the proposed action, and the action’s scope and complexity.

(b) Public meetings and hearings. See 40 CFR 1506.6(c). Refer to paragraph 12, 33 CFR part 325, appendix B for regulatory actions.

(c) Comments received on the draft EIS. See 40 CFR 1503.4. District commanders will pay particular attention to the display in the final EIS of comments received on the draft EIS. In the case of abbreviated final EISs, follow 40 CFR 1503.4(c). For all other final EISs, comments and agency responses thereto will be placed in an appendix in a format most efficient for users of the final EIS to understand the nature of public input and the district commander’s consideration thereof. District commanders will avoid lengthy or repetitive verbatim reporting of comments and will keep responses clear and concise.

(d) Comments received on the final EIS. Responses to comments received on the final EIS are required only when substantive issues are raised which have not been addressed in the EIS. In the case of feasibility reports where the final report and EIS, Board of Engineers for Rivers and Harbors (BEHR) or Mississippi River Commission (MRC) report, and the proposed Chief’s report are circulated for review, incoming comment letters will normally be answered, if appropriate, by CECW-P. After the review period is over, CECW-P will provide copies of all incoming comments received in HQUSACE to the district commander for use in preparing the draft record of decision. For all other Corps actions except regulatory actions (see 33 CFR part 325, appendix B), two copies of all incoming comment letters (even if the letters do not require an agency response) together with the district commander’s responses (if appropriate) and the draft record of decision will be submitted through channels to the appropriate decision authority. In the case of a letter recommending a referral under 40 FR part 1504, reporting officers will notify CECW-RE and request further guidance. The record of decision will not be signed nor any action taken on the proposal until the referral case is resolved.

(e) Commenting on other agencies’ EISs. See 40 CFR 1503.2 and 1503.3. District commanders will provide comments directly to the requesting agency. CECW-RE will provide comments about legislation, national program proposals, regulations or other major policy issues to the requesting agency. See appendix III of CEQ regulations. When the Corps is a cooperating agency, the Corps will provide comments on another Federal agency’s draft EIS even if the response is no comment. Comments should be specific and restricted to areas of Corps jurisdiction by law and special expertise as defined in 40 CFR 1508.15 and 1508.26, generally including flood control, navigation, hydropower, and regulatory responsibilities. See appendix II of CEQ regulations.

§ 230.20 Integration with State and local procedures.

See 40 CFR 1506.2.

§ 230.21 Adoption.

See 40 CFR 1506.3. A district commander will normally adopt another Federal agency’s EIS and consider it to be adequate unless the district commander finds substantial doubt as to technical or procedural adequacy or omission of factors important to the Corps decision. In such cases, the district commander will prepare a draft and final supplement noting in the draft supplement why the EIS was considered inadequate. In all cases, except
where the document is not recirculated
as provided in 40 CFR 1506.3 (b) or (c),
the adopted EIS with the supplement,
if any, will be processed in accordance
with this regulation. A district com-
mander may also adopt another agen-
cy’s EA/FONSI.

§ 230.22 Limitations on actions during
the NEPA process.

See 40 CFR 1506.1.

§ 230.23 Predecision referrals.

See 40 CFR part 1504. If the district
commander determines that a
predecision referral is appropriate, the
case will be sent through division to
reach CECW-RE not later than 15 days
after the final EIS was filed with EPA.
Corps actions referred to CEQ by an-
other Federal agency shall be trans-
mittted to CECW-RE for further guid-
ance. See paragraph 19, 33 CFR part 325,
appendix B, for guidance on predecision
referrals affecting regulatory permit
actions.

§ 230.24 Agency decision points.
The timing and processing of NEPA
documents in relation to major deci-
sion points are addressed in paragraphs
11 and 14 and appendix A for studies
and projects and 33 CFR part 320
through 330 for regulatory actions.

§ 230.25 Environmental review and
consultation requirements.

See 40 CFR 1502.25.

(a) For Federal projects, NEPA docu-
ments shall be prepared concurrently
with and utilize data from analyses re-
quired by other environmental laws
and executive orders. A listing of envi-
ronmental laws and orders is contained
in table 3.4.3 of Economic and Environ-
mental Principles and Guidelines for
Water and Related Land Resources Im-
plementation Studies. Reviews and
consultation requirements, analyses,
and status of coordination associated
with applicable laws, executive orders
and memoranda will be summarized in
the draft document. The results of the
coordination completed or underway
pursuant to these authorities will be
summarized in the final document.
Where the results of the ongoing stud-
ies are not expected to materially af-
fect the decision on the proposed ac-
tion, the filing of the final EIS need
not be delayed.

(b) Executive Order 12114, Environ-
mental Effects Abroad of Major Federal
Actions, 4 January 1979. For general pol-
cy guidance, see Federal Register of
April 12, 1979, 32 CFR part 197. Proce-
dural requirements for Civil Works
studies and projects are discussed
below.

(1) The district commander through
the division commander will notify
CECW-PE, PN, PS or PW as appro-
priate, of an impending action which
may impact on another country and for
which environmental studies may be
necessary to determine the extent and
significance of the impact. The district
commander will inform CECW-P
whether entry into the country is nec-
essary to study the base condition.

(2) CECW-P will notify the State De-
partment, Office of Environment and
Health (OES/ENH) of the district com-
mander’s concern, and whether a need
exists at this point to notify officially
the foreign nation of our intent to
study potential impacts. Depending on
expected extent and severity of im-
pacts, or if entry is deemed necessary,
the matter will be referred to the ap-
propriate foreign desk for action.

(3) As soon as it becomes evident that
the impacts of the proposed actions are
considered significant, CECW-P will
notify the State Department. The
State Department will determine
whether the foreign embassy needs to
be notified, and will do so if deemed ap-
propriate, requesting formal discus-
sions on the matter. When the Inter-
national Joint Commission (IJC) or the
International Boundary and Water
Commission, United States and Mexico
(IBWC) is involved in a study, the
State Department should be consulted
to determine the foreign policy impli-
cations of any action and the proper
course of action for formal consulta-
tions.

(4) Prior to public dissemination,
press releases or reports dealing with
impact assessments in foreign nations
should be made available to the appro-
priate foreign desk at the State De-
partment for clearance and coordina-
tion with the foreign embassy.

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