

## § 230.14

40 CFR 1502.07. An effort should be exerted to cover the substantive topics simply and concisely to the extent practicable, and consistent with producing a legally and technically adequate EIS. Normally, the CEQ page limits should be met.

(a) *Draft and final EISs.* Guidance on EISs prepared for planning and certain planning/engineering studies is contained in ER 1105-2-10 thru 60. 33 CFR part 325, appendix B contains guidance for regulatory actions. For final EISs which are not combined with or integrated into the report, the final EIS may take the form of an "abbreviated" document described in 40 CFR 1503.4(c). An abbreviated final EIS should consist of a new title page, summary, errata or correction sheet(s) and comments and responses. In filing the abbreviated final EIS with EPA (Washington Office), five copies of the draft EIS shall be included in the transmittal. District commanders shall be responsible for determining the type of final EIS to prepare.

(b) *Supplements.* A supplement to the draft or final EIS should be prepared whenever required as discussed in 40 CFR 1502.09(c). A supplement to a draft EIS should be prepared and filed in the same manner as a draft EIS and should be titled "Supplement I", "Supplement II", etc. The final EIS should address the changes noted in the supplement and substantive comments received as a result of circulation of the document. A supplement to a final EIS should be prepared and filed first as a *draft* supplement and then as a final supplement. Supplements will be filed and circulated in the same manner as a draft and final EIS (including the abbreviated procedure discussed in 13a. above). Supplements to a draft or final EIS filed before 30 July 1979 may follow the format of the previously filed EIS. Supplements to a draft EIS filed after this date will follow the format outlined in 40 CFR 1502.10. References to the draft or final EIS being supplemented should be used to eliminate repetitive discussions in order to focus on the important issues and impacts. The transmittal letter to EPA as well as the cover sheet should clearly identify the title and purpose of the document as well as the title and filing date

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of the previous EIS being supplemented and how copies can be obtained. The decision may be made on the proposed action by the appropriate Corps official no sooner than 30 days after the final supplement has been on file. A record of decision will be signed when the decision is made.

(c) *Tiering.* Tiering is discussed in 40 CFR 1502.20 and 1508.28 and should be used in appropriate cases. The initial broad or programmatic EIS must present sufficient information regarding overall impacts of the proposed action so that the decision-makers can make a reasoned judgment on the merits of the action at the present stage of planning or development and exclude from consideration issues already decided or not ready for decision. The initial broad EIS should also identify data gaps and discuss future plans to supplement the data and prepare and circulate site specific EISs or EAs as appropriate.

(d) *Other reports.* District commanders may also publish periodic fact sheets and/or other supplemental information documents on long-term or complex EISs to keep the public informed on the status of the proposed action. These documents will not be filed officially with EPA.

### § 230.14 Record of decision and implementation.

A record of decision shall be prepared by the district commander, in accordance with 40 CFR 1505.2, for the signature of the final decisionmaker as prescribed by applicable Corps regulations. Procedures implementing the decision are discussed in 40 CFR 1505.3. Incoming letters of comment on the final EIS will be furnished for review by the decisionmaker who signs the record of decision. For example, the record of decision for feasibility reports will be signed by the ASA(CW) at the time the report is transmitted to Congress for authorization.

### § 230.15 Mitigation and monitoring.

See 40 CFR 1505.2(c) and 1505.3. District commanders shall, upon request from interested agencies or the public, provide reports on the progress and status of required mitigation and other provisions of their decisions on Corps

projects. The term monitoring will be interpreted as that oversight activity necessary to ensure that the decision, including required mitigation measures, is implemented.

**§ 230.16 Lead and cooperating agencies.**

Lead agency, joint lead agency, and cooperating agency designation and responsibilities are covered in 40 CFR 1501.5 and 1501.6. The district commander is authorized to enter into agreements with regional offices of other agencies as required by 40 CFR 1501.5(c). District or division commanders will consult with HQUSACE (CECW-RE), WASH DC 20314-1000 prior to requesting resolution by CEQ as outlined by 40 CFR 1501.5 (e) and (f).

(a) *Lead Agency.* The Corps will normally be lead agency for Corps civil works projects and will normally avoid joint lead agency arrangements. Lead agency status for regulatory actions will be determined on the basis of 40 CFR 1501.5(c).

(b) *Corps as a Cooperating Agency.* For cooperating agency designation the Corps area of expertise or jurisdiction by law is generally flood control, navigation, hydropower and Corps regulatory responsibilities. See Appendix II of CEQ regulations (49 FR 49750, December 21, 1984).

**§ 230.17 Filing requirements.**

Five copies of draft, final and supplement EISs should be sent to: Director, Office of Federal Activities (A-104), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. District commanders should file draft EISs and draft supplements directly with EPA. Final EISs and final supplements should be filed by appropriate elements within HQUSACE for feasibility and reevaluation reports requiring Congressional authorization. Division commanders should file final EISs and final supplements for all other Corps actions except for final EISs or final supplements for permit actions which should be filed by the district commander after appropriate reviews by division and the incorporation of division's comments in the EIS. HQUSACE and/or division will notify field office counterparts when to cir-

culate the final EIS or final supplement and will file the final document with EPA after notified that distribution of the document has been accomplished.

(a) *Timing requirements.* Specific timing requirements regarding the filing of EISs with EPA are discussed in 40 CFR 1506.10. District commanders will forward any expedited filing requests with appropriate supporting information through channels to CECW-RE. Once a decision is reached to prepare an EIS or supplement, district commanders will establish a time schedule for each step of the process based upon considerations listed in 40 CFR 1501.8 and upon other management considerations. The time required from the decision to prepare an EIS to filing the final EIS normally should not exceed one year (46 FR 18037, March 23, 1981). For feasibility, continuing authority, or reevaluation studies, where the project's study time is expected to exceed 12 months, the timing of the EIS should be commensurate with the study time. In appropriate circumstances where the costs of completing studies or acquiring information for an EIS (*i.e.*, cost in terms of money, time, or other resources) would be exorbitant, the district commander should consider using the mechanism described in 40 CFR 1502.22, as amended. In all cases, however, it is the district commander's responsibility to assure that the time-limit established for the preparation of an EIS or supplement is consistent with the purposes of NEPA.

(b) *Timing requirements on supplements.* Minimum review periods will be observed for draft and final supplements covering actions not having a bearing on the overall project for which a final EIS has been filed. Such supplements should not curtail other ongoing or scheduled actions on the overall project which have already complied with the procedural requirements of NEPA.

**§ 230.18 Availability.**

Draft and final EISs and supplements will be available to the public as provided in 40 CFR 1502.19 and 1506.6. A summary may be circulated in lieu of the EIS, as provided in 40 CFR 1502.19,