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Title 40 —Protection of Environment
Chapter V —Council on Environmental Quality
Subchapter A —National Environmental Policy Act Implementing Regulations

Part 1503 Commenting on Environmental Impact Statements

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PART 1503—COMMENTING ON ENVIRONMENTAL IMPACT STATEMENTS

Authority: 42 U.S.C. 4321-4347; 42 U.S.C. 4371-4375; 42 U.S.C. 7609; and E.O. 11514, 35 FR 4247, 3 CFR, 1966-1970, Comp., p. 902, as amended by E.O. 11991, 42 FR 26967, 3 CFR, 1977 Comp., p. 123.

Source: 85 FR 43367, July 16, 2020, as amended at 89 FR 35554, May 1, 2024, unless otherwise noted.

§ 1503.1 Inviting comments and requesting information and analyses.

- (a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:
 - (1) Obtain the comments of any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved or is authorized to develop and enforce environmental standards; and
 - (2) Request the comments of:
 - (i) Appropriate State, Tribal, and local agencies that are authorized to develop and enforce environmental standards;
 - (ii) State, Tribal, or local governments that may be affected by the proposed action;
 - (iii) Any agency that has requested it receive statements on actions of the kind proposed;
 - (iv) The applicant, if any; and
 - (v) The public, affirmatively soliciting comments in a manner designed to inform those persons or organizations who may be interested in or affected by the proposed action.
- (b) An agency may request comments on a final environmental impact statement before the final decision and set a deadline for providing such comments. Other agencies or persons may make comments consistent with the time periods under § 1506.10 of this subchapter.

- (c) An agency shall provide for electronic submission of public comments, with reasonable measures to ensure the comment process is accessible to affected persons.

§ 1503.2 Duty to comment.

Cooperating agencies and agencies that are authorized to develop and enforce environmental standards shall comment on environmental impact statements within their jurisdiction, expertise, or authority within the time period specified for comment in § 1506.10 of this subchapter. A Federal agency may reply that it has no comment. If a cooperating agency is satisfied that the environmental impact statement adequately reflects its views, it should reply that it has no comment.

§ 1503.3 Specificity of comments and information.

- (a) To promote informed decision making, comments on an environmental impact statement or on a proposed action shall be as specific as possible, and may address either the adequacy of the statement or the merits of the alternatives discussed or both. Comments should explain why the issues raised are important to the consideration of potential environmental effects and alternatives to the proposed action. Where possible, comments should reference the corresponding section or page number of the draft environmental impact statement, propose specific changes to those parts of the statement, and describe any data, sources, or methodologies that support the proposed changes.
- (b) When a participating agency criticizes a lead agency's predictive methodology, the participating agency should describe the alternative methodology that it prefers and why.
- (c) A cooperating agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental review or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the draft statement's analysis of significant effects associated with the granting or approving by that cooperating agency of necessary Federal permits, licenses, or authorizations.
- (d) A cooperating agency with jurisdiction by law shall specify mitigation measures it considers necessary to allow the agency to grant or approve applicable authorizations or concurrences and cite to its applicable statutory authority.

§ 1503.4 Response to comments.

- (a) An agency preparing a final environmental impact statement shall consider substantive comments timely submitted during the public comment period. The agency shall respond to individual comments or groups of comments. In the final environmental impact statement, the agency may respond by:
 - (1) Modifying alternatives including the proposed action;
 - (2) Developing and evaluating alternatives not previously given serious consideration by the agency;
 - (3) Supplementing, improving, or modifying its analyses;
 - (4) Making factual corrections; or
 - (5) Explaining why the comments do not warrant further agency response, recognizing that agencies are not required to respond to each comment.
- (b) An agency shall append or otherwise publish all substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous).

- (c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a)(4) and (5) of this section, an agency may write any changes on errata sheets and attach the responses to the statement instead of rewriting the draft statement. In such cases, the agency shall publish the final statement (§ 1502.20 of this subchapter), which includes the errata sheet, a copy of the draft statement, the comments, and the responses to those comments. The agency shall file the final statement with the Environmental Protection Agency (§ 1506.10 of this subchapter).