

Reference: RGL 82-09

Subject: INTERAGENCY AGREEMENT-GENERAL

Title: IMPLEMENTING PROCEDURES FOR SECTION 404(Q) MEMORANDA OF AGREEMENT

Issued: 08/02/82 Expires: 12/31/84

Originator: DAEN-CWO-N

**Description: CLARIFICATION OF MOA REQUIREMENTS INCLUDING
SIGNATURE LEVEL, NOTIFICATION, CASE RECORD, TIME LIMITS, AND
INTERIM PROCEDURES.**

1. References:

a. Task Force on Regulatory Relief recommendations to Mr. William R. Gianelli, ASA(CW), dated 7 May 1982.

b. MOA between DOI/DA, dated 2 July 1982.

c. MOA between DOC/DA, dated 2 July 1982.

d. MOA between EPA/DA, dated 7 July 1982.

2. Agency requests for public notice time extensions and elevation letters pursuant to para. 7.b. of the MOA's must be signed by regional director (RD) or regional administrator (RA) or acting RD or acting RA. District letters granting or denying time extensions and notices of intent to issue (NII) letters will be signed by the district commander or acting district commander. Agency comment letters signed by other agency representatives are to receive full consideration, but they do not meet the review (elevation) requirements of paragraph 7. of the MOA's. Copies of the NII and the agency letter that triggered the NII will also be furnished to the division commander and Office, Chief of Engineers (DAEN-CWO-N).

3. When the ASA(CW) decides that a case will be reviewed by higher authority and at which level the final decision will be made, DAEN-CWO-N will notify the division commander and the district commander within one day of that decision. Unless otherwise instructed by ASA(CW), the case record will be forwarded to the decision maker as follows: To the division commander in 10 working days, the Chief of Engineers in 20 working days, or the ASA(CW) in 30 working days, as appropriate. These time limits start with the date of the ASA(CW) decision and allow up to 10 days each for the district

commander, the division commander, and the Chief of Engineers to add recommendations and forward the case. However, the case should be forwarded as expeditiously as possible to allow more time for the final decision maker to review the case and attempt to resolve the issues.

4. The permit case record on an elevated case will normally consist of a copy of the complete file and the views on the issues raised by the objecting agency or agencies and recommendation of the district commander, division commander, and Chief of Engineers as appropriate. In instances where there is a voluminous case record the district should contact DAEN-CWO-N to discuss how the case record will be transferred for review and whether or not repetitive comment letters can be summarized and/or representative samples forwarded.

5. If the division commander is the final decision maker, he will reach his decision within 90 calendar days of the NII. If the division commander or the Chief of Engineers believes that an unusual case exists, then the Chief of Engineers will contact ASA(CW) to see if additional time is warranted to reach a decision.

6. In order to meet the time requirements of the MOA's and comply with paragraph 7.f., field offices should use messenger, electronic telephone transfer, or the various guaranteed overnight delivery services that are available. The originating office will inform the receiving office of the method of transmittal. The review agencies have agreed to inform the district commander immediately when they find out that a permit case referral will not be sought, so that the district commander can complete the permit action.

7. Paragraph 10 of the DOI and DOC MOA's sets forth procedures for handling permit cases where the agencies have commented upon the proposed action and the district commander has not yet made his decision. FWS and NMFS had until 26 July 1982 to provide a letter on cases that they had objected to or recommended modification and state that they recommend denial or modification and they will seek elevation if the district commander decides the permit should be issued. Copies of all such letters will immediately be provided to the division commander and DAEN-CWO-N. Projects where no letters are received will not be subject to elevation and district commanders are to complete their action on the permit.

8. This guidance expires 31 December 1984 unless sooner revised or rescinded.

FOR THE COMMANDER: