

# Reference: RGL 82-07

## Subject: PROCESSING TIMES

**Title: 60 DAY TIME LIMIT FOR DECISION MAKING**

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**Originator: DAEN-CWO-N**

**Description: SPECIFIES TIME LIMITS FOR PERMIT PROCESSING AND ACCEPTABLE REASONS FOR DELAY.**

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1. On 7 May 1982, the Presidential Task Force on Regulatory Relief announced the results of its review of the Corps of Engineers Regulatory Program. One element of that report directed the Corps of Engineers to adopt, as soon as practicable, administrative measures to reduce the average time for obtaining a decision on a permit application.
2. Effective immediately, district commanders will reach a decision to issue or deny a request for a Department of the Army permit within 60 days of the receipt of the completed application unless:
  - a. There is a need to hold a public hearing;
  - b. An environmental impact statement must be prepared;
  - c. The comment period is extended past 30 days;
  - d. A timely rebuttal by the applicant to essential questions raised by the district commander cannot be made within this period;
  - e. Processing is stopped at the applicant's request (the applicant will not be allowed to unduly delay processing);
  - f. The application must be referred to higher authority;
  - g. There is a lack of concurrence by the state to a Coastal Zone Consistency Certification;
  - h. Other laws or regulations beyond the Corps' control preclude the district commander from reaching a decision.

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Once the cause preventing a decision from being reached in the 60 day period has been satisfied or eliminated, the 60 day clock will start running again.

3. HQUSACE understands that particular districts may be unable to meet this requirement immediately. These districts will prepare a schedule of implementation, including a target date to meet this requirement, and furnish this schedule through the division commanders to HQUSACE by 15 July 1982. In addition, all district commanders will take the following steps and any other appropriate steps, to enable this requirement to be met as soon as possible.

a. Reduce requests to the applicant for additional information or responses to comments. Many comments are either of a general nature, supporting or objecting to the proposal, or are directed primarily to the Corps, rather than to the applicant. These comments should be furnished to the applicant for his information but processing of the permit application should not be held in abeyance pending a response. If, however, the comments raise points so serious that they may result in denial of the permit, the applicant will be given an opportunity to respond.

b. Contact state agencies responsible for providing prerequisite certifications, explain the requirement placed upon the district by this guidance letter, and ask their assistance in meeting this time limit. Where possible, existing formal or informal agreements should be modified or strengthened, rather than abandoned. In particular, every effort should be made to enable the district to identify, at an early stage in the permit review process, those activities likely to affect important state concerns.

c. Consider shortening the comment period on public notices.

d. Consider greater use of letters of permission.

e. Consider combining documentation to reduce duplicative paperwork.

f. Consider changes in internal administrative procedures and organization to reduce delay caused by unnecessary internal coordination, overly long lines of authority, and unnecessary effort put into specific steps in the review process, while still maintaining effective management control. In particular, the authority to sign permits, public notices, and correspondence should be delegated to the lowest practicable level.

g. Consider use of joint review meetings or rescheduling of existing meetings to avoid unnecessary correspondence.

h. Make potential applicants aware of the greatly decreased time that will be available for negotiation of differences once the public notice is published and inform them of the benefits of pre-application consultation with the Corps.

4. The district commander is considered to have reached a decision when the permit is mailed to the applicant for signature or when the letter denying the permit is signed.

5. Quarterly reports on district processing time are currently submitted to HQUSACE under ER 1145-2-307, "Collection of Regulatory Program Data." This regulation is being revised and beginning with the 3rd Quarter 1982 submission, due 21 July, it will require reporting of the number of permit actions completed in more than 60 days and the reasons for delays.

6. HQUSACE is at this time preparing regulatory guidance letters on a number of topics that will assist district commanders in meeting the time limits established by this letter. Two of these topics are 401/CZM certification and mitigation. Other topics being considered are conditional denials, post conditioning of permits, consolidating required documentation, Section 404 letters of permission, and additional nationwide permits for Federal activities. The 404(q) agreements are also being revised. HQUSACE would like to receive suggestions from the field on specific policy or administrative changes that will help in meeting the 60 day time limit. These comments should be sent through the division commanders to arrive in DAEN-CWO-N by 15 July 1982.

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

FOR THE COMMANDER: