

Regulatory Guidance Letter 89-01
SUBJECT: Nationwide Permit Review Time
TITLE: General Permit Notifications

DATE: February 1, 1989 EXPIRES: December 31, 1991

1. The National Governors' Association has recommended that a time limit be placed on Corps review of activities to determine if they qualify for a programmatic general permit (33 CFR 325.5 (c)(3)) or require an individual permit. HQUSACE concurs that a time limit is necessary and should be applied to all general permits.

2. All new and reissued general permits should contain the following requirement:

This general permit does not require notification to the district engineer prior to commencement of the authorized activity, nor does it require confirmation from the district engineer that a proposed activity in full compliance with all terms and conditions of this general permit is authorized and may proceed. Nevertheless, a general permittee may choose to request in writing a verification that his proposed activity is authorized by a specific general permit. The written inquiry must be sent to the Corps of Engineers district office having jurisdiction over the proposed activity and must include the following information:

1. Name, address, and telephone number of the general permittee;
2. Location of the proposed work;
3. Brief description of the proposed work, its purpose, and [include here criteria for the specific general permit, e.g., size of fill area, quantity of fill, length of pier, etc.]
4. Identification of the general permit or permits which apply to the proposed work;
5. Any other information that the general permittee believes is appropriate

To the extent that the Corps limited resources will allow, the Corps; district office will attempt to respond to such a request for verification in a timely manner. If the general permittee's written request for verification is complete, accurate, and made in good faith, and the [Corps District Office] does not respond to such inquiry within twenty (20) days after the [Corps District Office] receives such an inquiry, the general permittee may proceed with the activity. In such a case the general permittee's authorization can only be suspended, modified, or revoked in accordance with the procedure set forth in 33 CFR 325.7<. On the other hand, if the Corps later determines that the general permittee's written request for verification was inaccurate, incomplete, or made in bad faith, and that the activity was not in fact authorized by the general permit, the Federal Government may bring an appropriate enforcement action under 33 CFR Part 326.

3. If the general permittee proceeds in accordance with the above procedure, the general permittee's right to proceed under the general permit may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 325.7.

4. This requirement should not be used to require notifications for general permits that would not otherwise be necessary. The language in paragraph 2 may be modified for consistency within the general permit.

5. This guidance expires 31 December 1991 unless sooner revised or rescinded.

FOR THE DIRECTOR OF CIVIL WORKS:

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