

Reference: RGL 82-01

Subject: NAVIGABILITY STUDIES

Title: NAVIGABILITY STUDIES

Issued: 01/26/82 Expires: 12/31/84

[NOTE. RGL 82-01 WAS RESCINDED BY [RGL 83-10](#) DATED 26 OCT 1983]

Originator: DAEN-CWO-N

Description: ORDERS TO DISCONTINUE ROUTINE COMPLETION OF NAVIGABILITY STUDIES.

1. Our last formal guidance on navigability studies was paragraph 9 of our letter dated 2 November 1978, subject: Regulatory Program - Clean Water Act of 1977, wherein we stated: "Since the transfer line will be at the head of navigation (present or susceptible), districts and divisions should expedite unfinished navigability studies particularly in those states where some interest has been expressed in seeking the transfer." There continues to be a need to complete the navigability studies for that same reason even though state interest in assuming the transferable portion of the 404 program remains low, in general.
2. Program changes resulting from the intensive OMB/Army review and possible legislative changes may increase the need to clearly establish the limits of Section 10 waters, including the limits of those waters that are navigable waters of the United States solely on the basis of historic use. District commanders should therefore continue with completion of navigability studies ("report of findings" - see 33 CFR 329.14).
3. The 1977 regulations delegated to the division commanders the authority to make navigability determinations. While there is a need to complete the navigability studies as soon as possible, to be ready for possible administrative and legislative changes as well as for potential state transfer, there is no present need to make the navigability determinations. Indeed such determinations, particularly those significantly extending the reach of Section 10 waters, could be viewed as contrary to the current Administration's views on regulatory reform.
4. Except when a clear need develops, on a case-by-case basis, division commanders should hold all navigability determinations in abeyance pending completion of the program review by the President's Task Force on Regulatory Relief and further instructions from this office.
5. This guidance expires 31 December 1984 unless sooner revised or rescinded.

FOR THE COMMANDER: