

Reference: RGL 83-11

Subject: MODIFICATIONS

Title: MODIFICATIONS TO PROPOSED ACTIVITIES DURING THE PROCESSING OF CORPS PERMITS

Issued: 10/28/83 Expires: 12/31/85 Originator: DAEN-CWO-N

Description: PROVIDES GUIDANCE ON PROCESSING PROCEDURES WHEN PERMIT APPLICANT MODIFIES HIS PROJECT DURING PROCESSING

1. The basic precept of the public notice process is stated in 33 CFR 325.3, "...include sufficient information to give a clear understanding of the nature and magnitude of the activity to generate meaningful comment." Section 325.2(a)(2) also requires district commanders to issue supplemental, revised, or corrected public notices if, in their view, the changes involved would affect the public's review of the proposal.
2. If the district commander determines, based on his public interest evaluation, that project modifications or conditions are necessary, he will consider whether the scope of the modifications or conditions is sufficient to require publication of a revised public notice. If the scope of the project is reduced (i.e., thereby reducing possible adverse environmental impacts), the district commander will not normally issue a revised public notice.
3. Additionally, there are situations where an applicant withdraws an application for which the district commander has issued a public notice, but has not acted by issuing or denying the permit, and the applicant subsequently resubmits the application for essentially the same work. When such a resubmission occurs within a reasonable time period after the permit withdrawal (normally should not exceed 6 months), and, if the public has actually and sufficiently availed itself of the opportunity for comment including, if appropriate, a public hearing on the original application such that the public's opportunity to comment meaningfully would not be abridged, the district commander need not issue a new public notice. Instead, he may rely on the previously issued public notice. If, however, the resubmission effectively would deprive the public of the opportunity to actually or sufficiently present its views on critical concerns regarding that particular permit application, then the district commander will issue a new public notice.

FOR THE COMMANDER: