

propagation (e.g., fishing reefs) along the coasts of the United States, to the Director, Office of Marine Recreational Fisheries, National Marine Fisheries Service, Washington, DC 20235.

(iv) If the activity involves the construction of structures which may affect aircraft operations or for purposes associated with seaplane operations, to the Regional Director of the Federal Aviation Administration.

(v) If the activity would be in connection with a foreign-trade zone, to the Executive Secretary, Foreign-Trade Zones Board, Department of Commerce, Washington, DC 20230 and to the appropriate District Director of Customs as Resident Representative, Foreign-Trade Zones Board.

(3) It is presumed that all interested parties and agencies will wish to respond to public notices; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. A copy of the public notice with the list of the addresses to whom the notice was sent will be included in the record. If a question develops with respect to an activity for which another agency has responsibility and that other agency has not responded to the public notice, the district engineer may request its comments. Whenever a response to a public notice has been received from a member of Congress, either in behalf of a constituent or himself, the district engineer will inform the member of Congress of the final decision.

(4) District engineers will update public notice mailing lists at least once every two years.

#### § 325.4 Conditioning of permits.

(a) District engineers will add special conditions to Department of the Army permits when such conditions are necessary to satisfy legal requirements or to otherwise satisfy the public interest requirement. Permit conditions will be directly related to the impacts of the proposal, appropriate to the scope and degree of those impacts, and reasonably enforceable.

(1) Legal requirements which may be satisfied by means of Corps permit conditions include compliance with the 404(b)(1) guidelines, the EPA ocean dumping criteria, the Endangered Spe-

cies Act, and requirements imposed by conditions on state section 401 water quality certifications.

(2) Where appropriate, the district engineer may take into account the existence of controls imposed under other federal, state, or local programs which would achieve the objective of the desired condition, or the existence of an enforceable agreement between the applicant and another party concerned with the resource in question, in determining whether a proposal complies with the 404(b)(1) guidelines, ocean dumping criteria, and other applicable statutes, and is not contrary to the public interest. In such cases, the Department of the Army permit will be conditioned to state that material changes in, or a failure to implement and enforce such program or agreement, will be grounds for modifying, suspending, or revoking the permit.

(3) Such conditions may be accomplished on-site, or may be accomplished off-site for mitigation of significant losses which are specifically identifiable, reasonably likely to occur, and of importance to the human or aquatic environment.

(b) District engineers are authorized to add special conditions, exclusive of paragraph (a) of this section, at the applicant's request or to clarify the permit application.

(c) If the district engineer determines that special conditions are necessary to insure the proposal will not be contrary to the public interest, but those conditions would not be reasonably implementable or enforceable, he will deny the permit.

(d) *Bonds.* If the district engineer has reason to consider that the permittee might be prevented from completing work which is necessary to protect the public interest, he may require the permittee to post a bond of sufficient amount to indemnify the government against any loss as a result of corrective action it might take.

#### § 325.5 Forms of permits.

(a) *General discussion.* (1) DA permits under this regulation will be in the form of individual permits or general permits. The basic format shall be ENG Form 1721, DA Permit (Appendix A).

## § 325.6

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(2) The general conditions included in ENG Form 1721 are normally applicable to all permits; however, some conditions may not apply to certain permits and may be deleted by the issuing officer. Special conditions applicable to the specific activity will be included in the permit as necessary to protect the public interest in accordance with § 325.4 of this part.

(b) *Individual permits*—(1) *Standard permits*. A standard permit is one which has been processed through the public interest review procedures, including public notice and receipt of comments, described throughout this part. The standard individual permit shall be issued using ENG Form 1721.

(2) *Letters of permission*. A letter of permission will be issued where procedures of § 325.2(e)(1) have been followed. It will be in letter form and will identify the permittee, the authorized work and location of the work, the statutory authority, any limitations on the work, a construction time limit and a requirement for a report of completed work. A copy of the relevant general conditions from ENG Form 1721 will be attached and will be incorporated by reference into the letter of permission.

(c) *General permits*—(1) *Regional permits*. Regional permits are a type of general permit. They may be issued by a division or district engineer after compliance with the other procedures of this regulation. If the public interest so requires, the issuing authority may condition the regional permit to require a case-by-case reporting and acknowledgment system. However, no separate applications or other authorization documents will be required.

(2) *Nationwide permits*. Nationwide permits are a type of general permit and represent DA authorizations that have been issued by the regulation (33 CFR part 330) for certain specified activities nationwide. If certain conditions are met, the specified activities can take place without the need for an individual or regional permit.

(3) *Programmatic permits*. Programmatic permits are a type of general permit founded on an existing state, local or other Federal agency program and designed to avoid duplication with that program.

(d) *Section 9 permits*. Permits for structures in interstate navigable waters of the United States under section 9 of the Rivers and Harbors Act of 1899 will be drafted at DA level.

### § 325.6 Duration of permits.

(a) *General*. DA permits may authorize both the work and the resulting use. Permits continue in effect until they automatically expire or are modified, suspended, or revoked.

(b) *Structures*. Permits for the existence of a structure or other activity of a permanent nature are usually for an indefinite duration with no expiration date cited. However, where a temporary structure is authorized, or where restoration of a waterway is contemplated, the permit will be of limited duration with a definite expiration date.

(c) *Works*. Permits for construction work, discharge of dredged or fill material, or other activity and any construction period for a structure with a permit of indefinite duration under paragraph (b) of this section will specify time limits for completing the work or activity. The permit may also specify a date by which the work must be started, normally within one year from the date of issuance. The date will be established by the issuing official and will provide reasonable times based on the scope and nature of the work involved. Permits issued for the transport of dredged material for the purpose of disposing of it in ocean waters will specify a completion date for the disposal not to exceed three years from the date of permit issuance.

(d) *Extensions of time*. An authorization or construction period will automatically expire if the permittee fails to request and receive an extension of time. Extensions of time may be granted by the district engineer. The permittee must request the extension and explain the basis of the request, which will be granted unless the district engineer determines that an extension would be contrary to the public interest. Requests for extensions will be processed in accordance with the regular procedures of § 325.2 of this part, including issuance of a public notice,