

## § 337.6

routine Civil Works activities involving the discharge of dredged or fill material to address the specific requirements of a particular geographic region. When evaluating general categories of activities, the district engineer should follow the same procedure as outlined for individual Federal activities including the water quality certification and/or coastal zone consistency requirements of part 336 of this chapter. General authorizations should include related activities of local interests. Additionally, district engineers should use existing general permits authorized on a statewide or regional basis and the nationwide permits at 33 CFR part 330 for Federal projects involving the disposal of dredged material. The development of new statewide or regional general authorizations for Federal activities should be in accordance with the requirements of §§ 336.1 and 336.2 of this chapter. General permits for related activities of local interests should be developed using the procedures of 33 CFR parts 320 through 330.

### § 337.6 Statement of Findings (SOF).

Upon completion of the evaluation process including required coordination, receipt or waiver of required state certifications, and completion of the appropriate environmental documents, an SOF will be prepared. In cases involving an EIS, a ROD will be prepared in accordance with 33 CFR part 230 and should be used in lieu of the SOF, providing the substantive parts of this section are included in the ROD. The SOF need not duplicate information contained in supporting environmental documents but rather may incorporate it by reference. The SOF should include a comprehensive summary and record of compliance and should be prepared in the following format except that the procedures of 33 CFR 325.2 should be followed for related activities of local interests.

(a) The SOF should identify the name of the preparer, date (which may not necessarily correspond to the date signed), and name of waterway.

(b) The proposed action for which the findings are made should be described.

(c) A coordination section should be provided. The coordination section

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should reference the public notice number and date. The letters of comment and appropriate responses should be summarized. Any coordination undertaken by local or state agencies should also be discussed.

(d) An environmental effects and impacts section should be used to document compliance with the applicable environmental laws. This section should include the views and/or conditions of the state concerning water quality certification and, if required, the results of the coastal zone consistency process.

(e) A determinations section should reference the results of the EA and/or EIS and any conditions necessary to meet the state's water quality standards or coastal zone management program. Appropriate conditions or modifications should be included in the project specifications. This section should also contain a subsection on consideration of alternatives and cumulative impacts.

(f) A section on the district engineer's findings and conclusions concerning the proposed project should be included.

(g) The SOF should be dated and signed by the district engineer or his designee except in those cases requiring referral to higher authority.

(h) In accordance with the provisions of section 104(g) of the ODA, the district engineer will forward a copy of the SOF to the District Commander, U.S. Coast Guard, if the activity involves the ocean disposal of dredged material.

(i) The Findings of No Significant Impact or ROD, as appropriate, required by 33 CFR part 230 may be incorporated into the SOF, as appropriate.

### § 337.7 Emergency actions.

After obtaining approval from the division engineer, the district engineer will respond to emergency situations on an expedited basis, complying with the procedures of this regulation to the maximum degree practicable. The district engineer will issue a public notice describing the emergency in accordance with § 337.1, if such a notice is practicable in view of the emergency situation; such a public notice should be forwarded to all appropriate Federal

and state agencies. The district engineer should prepare a section 404(b)(1) evaluation report and, as necessary, an environmental assessment, if this is practicable in view of the emergency situation. If comments are received from the public notice which, in the judgment of the district engineer, reveal the necessity of modifying the emergency operation, the district engineer should take appropriate measures to modify the emergency operation to reduce, avoid, or minimize adverse environmental impacts. If the district engineer, after receiving comments from the public notice, determines that the emergency action would constitute a major Federal action significantly affecting the quality of the human environment, he should, after consultation with the division engineer, coordinate with the Council on Environmental Quality about alternative arrangements for compliance with the NEPA in accordance with 40 CFR 1506.11 to the extent that it is practicable in view of the emergency situation. District engineers should consult with the appropriate state officials to seek water quality certification or waiver of certification, and should certify that the Federal action is consistent to the maximum extent practicable with an approved coastal zone management plan for emergency activities, to the extent that is practicable in view of the emergency.

#### § 337.8 Reports to higher echelons.

(a) *Certain activities involving the discharge of dredged or fill material require action by the division engineer or Chief of Engineers.* Such reports should be prepared in the format described in paragraph (b) of this section. Reports may be necessary in the following situations:

- (1) When there is substantial doubt as to the authority, law, regulations, or policies applicable to the Federal project;
- (2) When higher authority requests the case be forwarded for decision;
- (3) When the state does not concur in a coastal zone consistency determination or attempts to concur with conditions or controls;
- (4) When the state denies or unreasonably delays a water quality certifi-

cation or issues the certification with conditions or controls not related to maintenance or enforcement of state water quality standards or significantly exceeding the Federal standard;

(5) When the regional administrator has advised the district engineer, pursuant to section 404(c) of the CWA, of his intent to prohibit or restrict the use of a specified discharge site; or notifies the district engineer that the discharge of dredged material in ocean waters or territorial seas will not comply with the criteria and restrictions on the use of the site established under the ODA; and the district engineer determines that the proposed disposal cannot be reasonably modified to alleviate the regional administrator's objections; and

(6) When the state fails to grant water quality certification or a waiver of certification or concurrence or waiver of coastal zone consistency for emergency actions.

(b) *Reports.* The report of the district engineer on a project requiring action by higher authority should be in letter form and contain the following information:

- (1) Justification showing the economic need for dredging.
- (2) The impact on states outside the project area if the project is not dredged.
- (3) The estimated cost of agency requirements which exceed those necessary in establishment of the Federal standard.
- (4) The relative urgency of dredging based on threat to national security, life or property.

(5) Any other facts which will aid in determining whether to further defer the dredging and seek Congressional appropriations for the added expense or the need to exercise the authority of the Secretary of the Army to maintain navigation as provided by sections 511(a) and 404(t) of the CWA if the disagreement concerns water quality certification or other state permits.

(6) If the disagreement concerns coastal zone consistency, the district engineer will follow the reporting requirement of this section and § 336.1(b)(9) of this chapter.