



US Army Corps  
of Engineers  
Portland District

# Appeal Process Fact Sheet

February 2013



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The U.S. Army Corps of Engineer, Regulatory Program administrative appeal rule for individual permit decisions went into effect March 9, 1999, and was amended to include approved jurisdictional determinations on March 28, 2000. The published consolidated rule is found at 33 CFR Part 331, containing the complete administrative appeal process for JDs, permit denials, and declined individual permits. You may access this regulation at: <http://www.gpo.gov/fdsys/pkg/FR-2000-03-28/pdf/00-7439.pdf>.

The Corps administrative appeal rule provides a process whereby applicants and landowners may appeal denied permits, issued permits that contain requirements that are unacceptable to the applicant, or jurisdictional determinations. These permit and jurisdictional decisions are made by Corps District offices. Under certain circumstances eligible decisions may be appealed to the Corps' Division Engineer. Requests for appeal must be furnished to the Division office within 60 days of the date of the appealable decision. The Division will either uphold the District decision or remand the decision to the District with specific instructions on how to correct any procedural error that was prejudicial to the appellant (i.e., that was not a "harmless" procedural error), or to reconsider the decision where any essential part of the decision was not supported by accurate or sufficient information, or analysis, in the administrative record.

Affected parties will be notified in writing of a Corps decision on those activities that are eligible for an administrative appeal. For proffered and declined permits (i.e., proffered individual permits that the applicant refuses to accept and sends back to the Corps), or permit denials the District's notification to the applicant/landowner must include a *Notification of Administrative Appeal Process* (NAP) fact sheet, and a Request for Appeal (RFA) form. For approved jurisdictional determinations (JD), the Corps District's notification will include an NAP fact sheet, an RFA form, and a letter summarizing the basis for the Corps District's approved JD.

Upon receipt of the Corps District's notification that an activity is eligible for an administrative appeal the permit applicant/landowner may either accept the Corps' decision, or appeal the action as described in the NAP fact sheet.

To request an appeal of an eligible action within the Northwestern Division boundary you must submit a completed RFA form to the Division Engineer at the following address:

Division Engineer  
U.S. Army Corps of Engineers, Northwestern Division  
Mary J. Hoffman, Regulatory Appeals Review Officer  
1125 NW Couch Street  
Portland, Oregon 97209  
Telephone: (503) 808-3888

In order for an RFA to be accepted by the Corps Division, the Division must determine that it is complete, that it meets the criteria for appeal described under 33 CFR part 331.5, and that it has been received by the Division office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by the 60th day. "Day 1" is designated as the date of the NAP form. "Day 60" is designated as the 60th calendar day after the date of the NAP form, with the official counting of calendar days beginning on "Day 1" as designated above. When "Day 60" is a traditional non-working day (e.g., a holiday or a weekend), the 60 day timeframe is extended to the next business day. Our Division Office has 90 days to resolve the appeal with you once your completed and acceptable NAP-RFA form has been received.

It is not necessary to submit an RFA form to the Division office if you do not object to the decision or determination in our letter.

If you have any questions about your options for appeal or the appeal process in general, please contact either the Corps District Office at 503-808-3700, or the Corps Division Regulatory Appeal Review Officer at 503-808-3888.

To learn more about the Corps' administrative appeal process and access associated regulations, forms, flow charts, and other administrative appeals completed by the Corps Division Engineer, you may visit the Northwestern Division Regulatory Appeal Program web page at:  
<http://www.nwd.usace.army.mil/Missions/CivilWorks/RegulatoryProgram/RegulatoryAppeals.aspx>.