

Dredging Regulation Revision- 33 CFR 335-338

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Purpose

- Final Dredging Rule Issued April 1988
- No Revisions Since Rule Issued
- The Federal Standard Definition Lacked Clarity
- Law Suits
- EPA Issued New Water Quality Certification Rule at 40 CFR 121



The Changes

- Definitions
 - ▶ Certification Request: Explains what constitutes a valid certification request--40 CFR 121.5
 - Copied language from EPA rule at 121.5 to add emphasis
 - Starts the clock from which the reasonable period of time begins.



Definitions

- Revised Federal Standard:
 - ▶ To make clear dredging is not regulated
 - ▶ Explain conformance with new 401 rule through the 404(b)(1) guidelines process.



Definitions

- ▶ Reasonable Period of Time:
 - Explain that District Engineers are responsible for establishing that reasonable period of time-- 40 CFR 121.6
 - We established six months as the reasonable period of time based on historical experience.
 - DE's can extend that reasonable period of time if he/she deems it appropriate.



Definitions

- ▶ **Water Quality Requirements:**
 - Explains that water quality requirements do not include requirements not related to water quality, 40 CFR 121.3.
 - Provide examples of what are not water quality requirements.



Rule Changes

- Section 336.1(b)(8) Timelines for Review and Action:
 - ▶ Reaffirms that action on a water quality certification request must be taken within a reasonable period of time (6 months).
 - ▶ The federal action agency establishes that reasonable period of time and in no case can the time exceed one year, 40 CFR 121.6.
 - ▶ Establishes a requirement for pre-application meeting with the state



Changes Cont'd

- Section 337.2 State Requirements
 - Addresses excessive state requirements.
 - Discusses deferral of dredging circumstances.

