

§ 384.8

(1) The state has not adopted a process under the Order; or

(2) The assistance or development involves a program or activity not selected for the state process.

This notice may be made by publication in the FEDERAL REGISTER or other appropriate means, which the District Engineer in his discretion deems appropriate.

§ 384.8 How does the Corps of Engineers provide states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) Except in unusual circumstances, the responsible Corps official gives state processes or directly affected state, areawide, regional and local officials and entities at least 60 days from the date established by such official to comment on proposed direct Federal development or Federal financial assistance.

(b) This section also applies to comments in cases in which the review, coordination, and communication with the Corps of Engineers have been delegated.

§ 384.9 How does the Corps of Engineers receive and respond to comments?

(a) The responsible Corps official follows the procedures in § 384.10 if:

(1) A state office or official is designated to act as a single point of contact between a state process and all federal agencies, and

(2) That office or official transmits a state process recommendation for a program selected under § 384.6.

(b)(1) The single point of contact is not obligated to transmit comments from state, areawide, regional or local officials and entities where there is no state process recommendation.

(2) If a state process recommendation is transmitted by a single point of contact, all comments from state, areawide, regional, and local officials and entities that differ from it must also be transmitted.

(c) If a state has not established a process, or is unable to submit a state process recommendation, state, areawide, regional and local officials

33 CFR Ch. II (7-1-13 Edition)

and entities may submit comments to the responsible Corps official.

(d) If a program or activity is not selected for a state process, state, areawide, regional and local officials and entities may submit comments to the responsible Corps official. In addition, if a state process recommendation for a nonselected program or activity is transmitted to the responsible Corps official by the single point of contact, such official follows the procedures of § 384.10 of this part.

(e) The responsible Corps official considers comments which do not constitute a state process recommendation submitted under these regulations and for which such official is not required to apply the procedures of § 384.10 of this part, when such comments are provided by a single point of contact or directly to such official by a commenting party.

§ 384.10 How does the Corps of Engineers make efforts to accommodate intergovernmental concerns?

(a) If a state process provides a state process recommendation to the Corps of Engineers through its single point of contact, the responsible Corps official either:

(1) Accepts the recommendation;

(2) Reaches a mutually agreeable solution with the state process; or

(3) Provides the single point of contact with a written explanation of the decision in such form as such Corps official in his or her discretion deems appropriate. The Corps official may also supplement the written explanation by providing the explanation to the single point of contact by telephone, other telecommunication, or other means.

(b) In any explanation under paragraph (a)(3) of this section, the responsible Corps official informs the single point of contact that:

(1) The Corps of Engineers will not implement its decision for at least 10 days after the single point of contact receives the explanation; or

(2) The Assistant Secretary of the Army (Civil Works), or the next higher level responsible Corps official, has reviewed the case and determined that, because of unusual circumstances, the waiting period of at least 10 days is not feasible.