MEMORANDUM

TO: Harry Akagi, OEQC
FROM: Doak C. Cox
RE: Review of Interim Final Regulations for Discharge of Dredged and Fill Material into U.S. Waters (33 CFR 209)

The Environmental Center review of the above cited regulations has been prepared by the Center staff: Dan Burhans, Doak Cox, and Jacquelin Miller.

The Environmental Center review of earlier versions of these regulations raised several questions. Some of these are adequately covered in the revised regulations however some remain unanswered. The following comments have been developed from our review of the current interim regulations.

Section [d](2) Navigable waters (i): the term "Navigable waters" is defined "to mean waters of the U.S. including the territorial seas with respect to the disposal of fill material and excluding the territorial seas with respect to the disposal of dredged material." Again we raise the question as to the basis for a distinction between the disposal of dredged or fill material. Are not similar environmental concerns applicable?

Section [e](2) Discharges of dredged material or fill material into navigable waters. We are pleased to see the modification of this section to include consideration of the quality of the material to be discharged and its effect on the water quality of the receiving water as we had recommended in our earlier review.

Section [f](3) General Policies for Evaluating Permit Applications. This section retains the procedure for simultaneous Army and State processing of an application for a Dept. of Army permit. Since the lack of authorization or
certification by the State mandates a permit denial by the Army it would seem that delaying the Army's processing until after State approval would be a more efficient use of the Army's time. As we inquired in our earlier review, what is the rationale behind this decision.

Section [i](3) Processing applications for permits: Timing of processing of applications. (i-iv). We were pleased to note that a schedule for processing of permits is included in these revised regulations. According to the time schedules suggested it would appear that some 120 days would be the minimum response time to a permit request. This period of course would be lengthened by a minimum of 30 days if a public hearing is held.

Section [j](1) Public notice and coordination with interested parties. (viii) refers to a minimum review time of 15 days with a recommended 30 day review period. If this 15 day period is implemented the response time to a permit request could be shortened to approximately 60 days. We would strongly urge an increase in the minimum review time as given in this paragraph to 30 days. Mail turn-around times for Hawaii and parts of Alaska are surprisingly long and a 15 day review period would leave an exceedingly brief period for actual study and comment preparation on our part.

We appreciate the opportunity to offer our comments on these interim regulations. We look forward to receiving a reply to the questions and concerns we have raised.

[Signature]

Doak C. Cox, Director