



US Army Corps
of Engineers®

125030-SPD Regulatory Administrative Appeal Process



South Pacific
Division

Table of Contents

- [1.0 Purpose](#)
- [2.0 Applicability](#)
- [3.0 References](#)
- [4.0 Related Procedures](#)
- [5.0 Definitions](#)
- [6.0 Responsibilities](#)
- [7.0 Procedures](#)
- [8.0 Records & Measurements](#)
- [9.0 Attachments](#)
- [10.0 Flow Chart](#)

1.0 Purpose. This guidance describes South Pacific Division's (SPD) regional implementation of the Regulatory administrative appeal process, provided at 33 C.F.R. § 331 *et seq.* The administrative appeal process allows an affected party to pursue an administrative appeal of an approved jurisdictional determination, permit denial, or declined permit.

2.0 Applicability.

This process applies to all offices of the South Pacific Division. Subordinate offices or organizations shall not modify this procedure to form a specific procedure.

3.0 References.

[12500-SPD, South Pacific Division Regulatory Program Signature Authority.](#)

[33 C.F.R. Parts 320-332.](#)

[Regulatory Guidance Letter \(RGL\) 06-01 – Determining the Timeliness of Requests for Appeal \(RFA\).](#)

Current Approved Version: 12/19/2012. Printed copies are for "Information Only." The controlled version resides on the SPD QMS SharePoint Portal.

4.0 Related Procedures.

[Army Corps of Engineers Standard Operating Procedures for the Regulatory Program \(1 July 2009\).](#)

5.0 Definitions.

Affected party - A permit applicant, landowner, a lease, easement or option holder (i.e., an individual who has an identifiable and substantial legal interest in the property) who has received an appealable action.

Administrative Record - The administrative record includes all documents and materials directly or indirectly considered by the decision-maker, including documents and materials that are pertinent to the merits of the decision, as well as those that are relevant to the decision-making process.

Appealable action - Appealable actions are limited to approved jurisdictional determinations, permit denials, and declined permits.

Appellant - An affected party who has filed an appeal of an approved JD, a permit denial or declined permit.

Approved jurisdictional determination - A Corps document stating the presence or absence of waters of the United States on a parcel of land or a written statement and map identifying the limits of waters of the United States on a parcel of land.

Declined permit - A proffered individual permit, including a letter of permission, where the applicant objects to the terms and special conditions therein.

Individual permit - A Department of the Army authorization that is issued following a case-by-case evaluation of a permit application in accordance with the procedures at 33 C.F.R. Part 325, and a determination that the proposed project is not contrary to the public interest pursuant to 33 C.F.R. Part 320.

Jurisdiction determination (JD) – a written Corps determination that a wetland and/or waterbody is subject to regulatory jurisdiction under section 404 of the Clean Water Act or a written determination that a waterbody is subject to regulatory jurisdiction under section 9 or 10 of the Rivers and Harbors Act of 1899.

Letter of permission (LOP) - A type of individual permit issued in accordance with the abbreviated procedures of 33 C.F.R. § 325.2(e).

[Notification of Appeal Options and Process and Request for Appeal - Section I \(NAO/NAP\)](#) - A fact sheet that explains the criteria and procedures of the administrative appeal process and the rights and options of an affected party.

Current Approved Version: 12/19/2012. Printed copies are for "Information Only." The controlled version resides on the SPD QMS SharePoint Portal.

[Notification of Appeal Options and Process and Request for Appeal – Section II](#) – A form used by an affected party to list and/or explain reasons for appeal or objections to an initial proffered permit.

ORM - Operations and Maintenance Business Information Link (OMBIL) Regulatory Module.

Permit denial – A written denial with prejudice of an individual permit application.

Proffered permit – A permit that is sent to an applicant to sign (for a standard permit) or accept (for a LOP). The term “initial proffered permit” refers to the first time a permit is sent to the applicant and which is not an appealable action. However, the applicant may object to the terms or conditions of the initial proffered permit and, if so, a second reconsidered permit will be sent to the applicant. The term “proffered permit” as used herein refers to the second permit that is sent to the applicant, and is an appealable action.

Review Officer (RO) – The Corps official responsible for assisting the Division Engineer or higher authority responsible for rendering the final decision on the merits of an appeal.

[Tolling agreement](#) - An agreement which states that the affected party agrees to have the Statute of Limitations regarding any violation associated with an approved JD or after-the-fact (ATF) permit application “tolled” or temporarily set aside until one year after the final Corps decision, as defined at 33 C.F.R. § 331.10. No ATF permit application or administrative appeal associated with an unauthorized activity will be accepted until a tolling agreement is furnished to the District Engineer.

See [Glossary](#) for further QMS definitions and acronyms.

6.0 Responsibilities.

Division Engineer – The Division Engineer has the responsibility for administering a fair, reasonable, prompt, and effective administrative appeal process, and has the authority to make the final decision on the merits of an appeal.

RO – The RO assists the Division Engineer in reaching and documenting the Division Engineer’s decision on the merits of an appeal. The RO within SPD is responsible for the day-to-day management of the appeal program and administers the appeal process for the Division Engineer. The RO may not, in all cases, be delegated RO responsibilities on all SPD appeals. Workload and past knowledge or involvement with a District action (creating a possible conflict of interest) may result in RO project-specific responsibilities being delegated to an RO from another Division.

Division Office of Counsel – This office serves as the legal advisor to the Division Engineer and the RO. During the appeal process, advice from the Office of Counsel may involve matters such as the sufficiency/deficiency of the District administrative record, the legal

sufficiency of District decisions, and the recommended appeal decision.

Responsibilities of the District Engineer, and District Regulatory Division personnel are discussed in Paragraph 7.

7.0 Procedures.

7.1 Request for Appeal (RFA)

7.1.1 Timeframe: The District is required to provide a NAO/NAP form when the affected party is notified in writing of the Corps' approved JD and/or permit decision (permit denial or proffered permit). By regulation, an affected party appealing an approved JD, permit denial, or declined permit must submit an RFA to the Division Engineer within 60 days of the date of the NAO/NAP. RGL 06-01 specifies that "Day 1" is the date of the NAO/NAP form and that "Day 60" is designated as the 60th calendar day after that date. When "Day 60" is a traditional non-working day (e.g., a holiday or a weekend), the 60-day time frame is extended to the next business day. An RFA received by the Division Engineer after "Day 60" is not an acceptable RFA. In determining when the RFA is received, the RO should rely upon a confirmed date of receipt (e.g. date received stamp, U.S. Postal Service delivery confirmation).

7.1.2 Criteria for appeal: The reason(s) for requesting an appeal of an approved JD, a permit denial, or a declined permit must be specifically stated in the RFA and must be more than a simple request for appeal because the affected party did not agree with the approved JD, permit decision, or the permit conditions. Examples of reasons for appeals include, but are not limited to, the following: a procedural error; an incorrect application of law, regulation or officially promulgated policy; omission of material fact; incorrect application of the current regulatory criteria and associated guidance for identifying and delineating wetlands; incorrect application of the Section 404(b)(1) Guidelines (see 40 C.F.R. Part 230); or use of incorrect data. The reasons for appealing a permit denial or a declined permit may include jurisdiction issues, whether or not a previous approved JD was appealed. This could result in the same issues being considered in two separate appeal decisions. The burden is on the appellant to clearly identify specific reasons for the appeal. If the RFA contains overly general or poorly defined reasons for appeal, the RO will notify the appellant, as described below in 7.1.3, and will request that the appellant clarify the reasons for appeal, prior to the Division's acceptance of the appeal for review.

7.1.3 Receipt of Request for Appeal: The appeal process begins with the receipt by the Division office of a complete RFA. Upon receipt of an RFA, the RO will review the RFA and determine if it is acceptable (complete and meets the criteria for appeal). A complete RFA must include the name of the affected party, the Corps file number, the reason(s) for appeal, and any supporting data and information. No new information may be submitted. Information that may be submitted is limited to that contained in the administrative record and that which interprets, clarifies, or explains issues and information contained in the administrative record.

- ✓ If the RFA is acceptable, the appellant will be so notified within 30 days of receipt of the RFA.
- ✓ If the RFA is incomplete, the appellant will be so notified in writing within 30 days of receipt of the RFA. The letter will cite the reason(s) why the RFA is incomplete. The appellant has 30 days from the date of the notification letter to submit a revised RFA. If the revised RFA is still incomplete, or the revised RFA is received after 30 days, the appellant will be notified in writing that no further RFAs will be accepted for the District decision in question.
- ✓ If the RFA does not meet the criteria for appeal, the appellant will be so notified in writing, within 30 days of receipt of the RFA. The letter will cite the reason(s) why the RFA does not meet the criteria for appeal. No further administrative appeal is available unless the appellant revises the RFA to correct the deficiencies noted in the letter. In order to remain eligible for appeal, a revised RFA must be received from the appellant within 30 days of the Division's letter. If the Division Engineer determines that the revised RFA is still not acceptable, the Division Engineer will notify the appellant that the matter is not eligible for appeal. No further RFAs will be accepted after this point.
- ✓ The RO will typically forward a copy of any RFA to the appropriate District office within 10 days of receipt.
- ✓ A review of the administrative record (AR) will not be made to determine if the RFA is acceptable. Once the RFA is determined to be complete, the RO will request the appropriate District to send a complete copy of the AR to the appellant and RO.

7.2 Administrative Record

7.2.1 Once the RO has made a preliminary determination that the RFA is acceptable, the RO will request the District submit one copy of the AR to the RO and one to the appellant, typically within 14 days. If providing the AR will take longer than 10 working days, the District should explain the delay to the RO. It is essential that the AR the District provides to the appellant is the same as that provided to the RO, with the exception of any materials that must be excluded from release, as discussed below. The District will provide the full, unredacted AR to the RO.

7.2.2 According to the File Maintenance section of the [Army Corps of Engineers Standard Operating Procedures for the Regulatory Program \(1 July 2009\)](#), “[t]he administrative record should include all documents and materials directly or indirectly considered by the decision-maker. It should include documents and materials that are pertinent to the merits of the decision, as well as those that are relevant to the decision making process. Copies of readily available policy documents, guidelines, directives, and manuals utilized in the decision making process should not be provided in the record.”

- ✓ District Counsel should be consulted to help identify records that are protected from disclosure, which include, but are not limited to, attorney-client privileged communications, attorney work product, cultural resources information prohibited by section 304 of the National Historic Preservation Act, information involving matters of personal privacy, deliberative process, and confidential business information. Privileged records should be provided to the RO separately from the AR provided to the appellant and clearly marked as such. **Privileged records must not be provided to the appellant.** If the RO has questions about the legal status of any information determined to be privileged by District Counsel, the RO should consult with Division Counsel.
- ✓ It is not required that readily available policies, guidelines, directives, and manuals utilized in the decision be provided. However, to assist in providing timely decisions, districts shall provide references to technical documents and other documents to the RO.

7.2.3 Unless otherwise indicated by the RO, the AR should be arranged in the following order:

- ✓ The final action and decision document. For approved JDs, the decision document would include JD forms and all supporting information, including location maps. For permit denials and declined permits, the decision document is the combined environmental document and all supporting information.
- ✓ All references cited in the decision document, arranged sequentially.
- ✓ The remainder of the AR, in reverse chronological order.

7.2.4 Additional instructions for submitting the AR:

- ✓ Number (Bates Stamp) the pages in the AR.
- ✓ A title page must be included. The title page should include the name, telephone number and e-mail address of the District's point of contact. The title page should also include the appellant's name, address, telephone number and e-mail, the project name, Corps file number, and the city, county and state of the project location.
- ✓ In some cases, information that was critical in the decision making process may have been in color format. The District should provide all such critical information in color format.

7.2.5 The RO will conduct an independent review of the AR to address the reasons for appeal cited by the appellant in the RFA. In addition, as practicable and feasible, the RO will also verify that the AR provides an adequate and reasonable basis supporting the District Engineer's decision, that facts or analysis essential to the District Engineer's decision have not been omitted from the AR, and that all relevant requirements of law, regulations, and

officially promulgated Corps policy guidance have been satisfied. Even if the appellant's reasons for appeal are not proven, if the AR would not be sufficient to support the reasonableness of the District decision, the JD or permit decision may be remanded to the District.

7.3 Site investigation

7.3.1 The RO should make a determination if a site investigation is needed to clarify the administrative record within 30 days of receipt of an acceptable RFA. The site investigation should normally be conducted within 60 days of receipt of an acceptable RFA.

7.3.2 Meeting with the appellant and conducting site visits positively affects the credibility of the appeal program. Visiting the site with the appellant and District is a valuable step that can help the RO to clarify the AR. Although appeal conferences and site visits are optional for approved JD's, they should be conducted when requested by the appellant or when the RO believes it is necessary to help clarify the AR

7.3.3 Once the RO determines a site investigation will be conducted, the District staff, appellant and appellant's authorized agent(s) will be given a 15-day notice of any site investigation. The RO will attempt to schedule the site visit to accommodate all involved parties' participation. Site investigations should be scheduled with an appeal conference, where practicable. The site visit may occur either before or after the appeal conference, at the discretion of the RO.

7.3.4 In no case shall any site investigation extend the total appeals process beyond twelve (12) months from receipt of an acceptable RFA. The purpose of the site investigation is not to gather new information, but to clarify the AR. The RO may take photographs of the project site. Such photographs are normally not considered new information. A site investigation is not required to complete the appeal process for an approved JD, denied permit, or declined proffered permit. The Memorandum for Record (MFR) prepared for the appeal conference should include a summary of the site investigation.

7.4 Approved JD Appeal Meeting

The RO may schedule an informal meeting or conference call with the appellant and/or the appellant's authorized agent and the appropriate Corps regulatory personnel. The RO should normally conduct this meeting within 60 days of receipt of an acceptable RFA. The purpose of the meeting or teleconference is to clarify the AR. A summary or MFR should be prepared by the RO for all appeal meetings on approved JDs. The RO may conduct a site visit in conjunction with the approved JD appeal meeting at his/her discretion.

7.5 Permit Denial/Declined Permit Appeal Conference

7.5.1 An appeal conference must be held for every appeal of a permit denial or declined permit, unless the appellant and RO mutually agree that a conference is not necessary. The appeal conference must occur within 60 days of receipt of an acceptable RFA unless the RO

determines that unforeseen or unusual circumstances require scheduling the conference for a later date. Generally, the conference should be held in a location that is convenient for the appellant and/or appellant's agent and, if possible, in the proximity of the project site. The RO, appellant and/or the appellant's agent, and District personnel, including District Counsel, are authorized to participate in the conference. A list of attendees should be submitted to and approved by the RO prior to the conference. If the RO determines that a person should not be allowed to attend the conference, reasons behind that determination should be provided. The Division Engineer and/or the District Engineer may attend the conference at his/her discretion. The RO may also invite any other parties to participate who he/she has determined to be appropriate (e.g., Division Counsel when appellant's counsel will be present, subject matter experts (SME) when appellant's SME's will be present).

7.5.2 The purpose of the appeal conference is for the RO to clarify the record for the Division Engineer's decision. The RO will clearly state that no decision regarding the appeal is made during the meeting. The RO seeks clarification of issues in the administrative record in order to hear and fully consider all relevant issues and facts. Participants in the appeal meeting have the opportunity to interpret, clarify, or explain issues and information contained in the record. Issues not identified in the administrative record by the date of the NAO/NAP form may not be raised or discussed. Information that may be discussed is limited to that contained in the administrative record and that which interprets, clarifies, or explains issues and information contained in the administrative record.

7.5.3 The appeal conference is informal and administrative. As such, it is not a legal forum, and rules of evidence do not apply. The ultimate goal of the meeting is for the RO to fully understand the appellant's reasons for appeal and the District's rationale for reaching their decision and how/where they documented the decision process. By the end of this meeting, the RO needs to be confident that he/she can fully explain both perspectives to the Division Engineer and answer any questions regarding the merits of the appellant's reasons for appeal.

7.5.4 The conference will be held at a location with suitable facilities which are reasonably convenient to the appellant, preferably in the proximity of the project site. Public facilities or other facilities that are available at no expense are preferred (i.e., agent's office, public library, town hall meeting room, etc.). If a free facility is not available, the Corps will pay the cost for the facility.

7.5.5 The proceedings of the conference will not be recorded verbatim by the Corps or any other party attending the conference and no verbatim transcripts of the conference will be made. The RO will document the appeal conference in an MFR.

7.5.6 When travelling to and from the appeal conference, the RO should travel alone if possible, in order to avoid the appearance that the RO is not acting with independence and impartiality. If travelling in a group, an individual from the District and the appellant or his representative should be present to ensure that all parties are privy to the topics discussed and to allay any perceptions of partiality.

7.6 Appeal Decision

Current Approved Version: 12/19/2012. Printed copies are for "Information Only." The controlled version resides on the SPD QMS SharePoint Portal.

7.6.1 The Division Engineer will make a decision on the merits of the appeal, unless he/she has delegated decision authority to another (for JD appeals only). The Division Engineer will document his/her decision in writing and provide a copy of the decision to the appellant and to the District Engineer. The RO will prepare an administrative appeal decision document (see Attachment 9.1) which has been reviewed by the Division Office of Counsel and other appropriate Division offices. The RO will also prepare the letter to the appellant and a letter or memorandum to the District Engineer to advise him/her of the appeal decision.

7.6.2 The Division Engineer will disapprove and remand the entirety or any part of the District Engineer's decision only if he/she determines that the decision on some relevant matter was arbitrary, capricious, an abuse of discretion, not supported by substantial evidence in the AR, or plainly contrary to a requirement of law, regulation, an Executive Order, or Corps policy or guidance. The Division Engineer will not attempt to substitute his/her judgment for that of the District Engineer provided the District's decision was supported by substantial evidence in the AR. The Division Engineer may instruct the District Engineer on how to correct a procedural error that was prejudicial to the appellant or reconsider a decision that was not supported by sufficient information or substantial evidence in the AR, but will not attempt to influence the District Engineer's decision. The decision of the Division Engineer on the merits of the RFA will conclude the administrative appeal process and will be included in AR. A copy of the final Division appeal decision document should be posted by the RO on the Division Appeals web site within 10 days of the final decision. Any document so posted will be redacted as necessary to protect the privacy and business interests of the parties.

7.7 District Procedures

7.7.1 Information Support: District involvement in the appeal process begins with notification by the RO that an appeal has been received. The District must provide copies of the AR promptly, as described in paragraph 7.2, so as not to delay the appeal process. After providing the AR, the District should be available to answer questions and clarify the AR, as well as participate in an appeal conference if the RO determines one is necessary. Further District involvement will be limited to final ORM2 data entry and response to any remand from the Division Engineer.

7.7.2 Initial Proffered Permits: In accordance with 33 C.F.R. § 331.6(b), the District Engineer will reconsider an initial proffered permit, if the applicant submits a letter to the District Engineer explaining his/her objections to the permit. Contrarily, the NAO/NAP form states: "If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form [Appendix B] and return the form to the District Engineer." Due to this contradiction in instructions, districts should consider either a letter or a completed RFA form as an acceptable method for an applicant to submit objections to an initial proffered permit. The District Engineer, upon evaluation of the applicant's objections, may modify the permit to address all of the applicant's objections or modify the permit to address some, but not all, of the applicant's objections, or not modify the permit, having determined that the

permit should be issued as previously written. In the event that the District Engineer agrees to modify the initial proffered permit to address all of the applicant's objections, the District Engineer will proffer such modified permit to the applicant, enclosing an NAO/NAP fact sheet and an RFA form as well. Should the District Engineer modify the initial proffered permit to address some, but not all, of the applicant's objections, the District Engineer will proffer such modified permit to the applicant, enclosing an NAO/NAP fact sheet, RFA form, and a copy of the decision document for the project. If the District Engineer does not modify the initial proffered permit, the District Engineer will proffer the unmodified permit to the applicant a second time, enclosing an NAO/NAP fact sheet, an RFA form, and a copy of the decision document. If the applicant still has objections, after receiving the second proffered permit, the applicant may decline such proffered permit; this declined permit may be appealed to the Division Engineer within 60 days of the NAO/NAP.

7.7.3 Approved JDs: In accordance with 33 C.F.R. 331.6(c), approved JDs will be reconsidered by the District Engineer if the affected party submits new information of data to the District Engineer within 60 days of the dated of the NAO/NAP. The District Engineer has 60 days from the receipt of such new information or data, to review the new information or data, consider whether or not that information changes the previously approved JD, and, reissue the approved JD or issue a new approved JD. The reconsideration of an approved JD by the District Engineer does not commence the administrative appeal process. The affected party may appeal the District Engineer's reissued or new approved JD.

7.7.4 Remanded Permit Decisions: If a permit decision is remanded to the District upon appeal, the District Engineer will further analyze and/or evaluate the specific issues identified by the Division Engineer in the administrative appeal decision document. The District Engineer's decision made pursuant to the remand is the final Corps permit decision and is not appealable.

7.7.5 Remanded JDs: If a JD is remanded to the District, the District Engineer will further analyze and/or evaluate the specific issues identified by the Division Engineer in the administrative appeal decision document.

7.7.6 Final District Decision to Appellant: The District Engineer should make a final decision on a remanded appeal as soon as possible (usually 60-90 days) after receipt of a remand from the Division Engineer. The number of days may be specified by the Division Engineer. If so, and the District requires additional time, the District may contact the RO to request a time extension. The District Engineer will, upon making a final decision, provide the appellant and the RO a copy of the final decision.

7.8 Unauthorized Activities

7.8.1 If unauthorized activities are involved, an approved JD, permit denial, or declined permit may only be treated as an appealable action and accepted if:

- ✓ There is an executed tolling agreement.

- ✓ The District has accepted an ATF permit application.
- ✓ Any required initial corrective measures have been completed.
- ✓ The activity is not subject to referral to the Department of Justice or the EPA, and EPA has not requested or does not have lead enforcement authority.

7.8.2 The tolling agreement must state that, in exchange for the Corps accepting the approved JD appeal or ATF permit application, the ATF permit applicant or recipient of an approved JD associated with an unauthorized activity has agreed that the Statute of Limitations would be suspended until one year after the final action/decision has been taken on the approved JD appeal, ATF permit decision, or declined ATF individual permit. If a District accepts an ATF permit application, any resulting denied or declined permit will be treated the same as a non-ATF permit for purposes of applying the administrative appeal rules (with some additional requirements as set forth in 33 C.F.R. § 331.11).

7.8.3 The tolling agreement also applies to any succeeding administrative appeal of an ATF permit denial or declined ATF individual permit. The tolling period would terminate one year after a final decision on:

- ✓ The appeal of an approved JD
- ✓ The appeal of a proffered ATF permit
- ✓ The denial of an ATF permit application, or an appeal of such a denial decision, whichever is later.

7.8.4 The one year post-decision period is necessary in the event that the United States determines that it would be appropriate to file an action in the Federal courts to obtain a satisfactory remedy for the unauthorized activity. A separate tolling agreement is required for each unauthorized activity.

7.8.5 The 60-day period for the applicant to file an RFA runs from the date of the NAO/NAP form for the ATF proffered permit or permit denial. For approved JDs associated with unauthorized activities, for which the Corps accepts an ATF permit application, the 60-day period would commence from the date of the NAO/NAP for the approved JD.

7.8.6 There is an exception to the normal procedure for cases involving unauthorized activities. In rare cases, the Division Engineer may accept an appeal of such an approved JD if the Division Engineer determines “that the interests of justice, fairness, and administrative efficiency would be served.”

7.8.7 If unauthorized activities are confirmed after an appeal has already been accepted, the appeal process is stopped. Processing of the appeal is held in abeyance until the violation is resolved to the District’s satisfaction or where initial corrective measures completely resolve the violation. However, as noted above, the appeal may go forward in extraordinary

circumstances if the interests of justice, fairness, and administrative efficiency would be served.

8.0 Records and Measurements.

8.1 Records

8.1.1 Appeals will be tracked in the Ombil Regulatory Module, version 2 (ORM2) by the RO. The District will be responsible for entering the appropriate data into ORM2 prior to receiving an appeal in accordance with the ORM2 SOP. From the receipt of a RFA through issuance of a final Division decision document, the RO will be responsible for data tracking and input. If a decision is remanded to the District for further action, it will be the responsibility of the District project manager to track the final ORM data input from the date the Division appeal decision document is issued.

8.1.2 The RO shall maintain an appeals web page with general information on the appeal process and a table of appeals with specific information on the status of individual appeals. Links to these pages should be found on the Division regulatory web page and, if possible, on the Division home page. District Regulatory web pages should also have links to the Division Regulatory web page and to the Division administrative appeal web page(s). The following information will be posted in the Division table of appeals:

- ✓ District where appeal action was initiated
- ✓ Date the RFA was received
- ✓ Date of final division appeal decision (date completed)
- ✓ Type of appeal (denial, proffered permit, approved JD)
- ✓ A link to a copy of the appeal decision document
- ✓ Type of decision (merit, no merit, withdrawn)
- ✓ Final District action (issued, denied, modified, upheld, etc.)

8.1.3 All documents listed above will be filed in the corresponding project files in accordance with [ES-QMS140, "Records Management"](#).

Type	Description	Responsible Office	Location	Record Media	Retention	Disposition
R	Administrative records, administrative appeal decisions	SPD and Regulatory Divisions within SPD Districts	Project file folders in filing cabinets in SPD and Regulatory Divisions within SPD Districts	P	7 years	Send to records holding

Current Approved Version: 12/19/2012. Printed copies are for "Information Only." The controlled version resides on the SPD QMS SharePoint Portal.

8.2 Measurement.

The SPD Administrative Appeal Review Officer, Regulatory Program Manager, and District Regulatory Management personnel at SPA, SPK, SPL, and SPN will periodically inspect project files to ensure compliance with this process.

9.0 Attachments.

[9.1 Appeal Decision Document Template](#)

10.0 Flow Charts.

[10.1 Administrative Appeals Process for Permit Denials and Proffered Permits](#)

[10.2 Applicant Options with Initial Proffered Permit](#)

[10.3 Administrative Appeals Process for Approved Jurisdictional Determinations](#)

[10.4 Process for Unacceptable Request for Appeal](#)

ATTACHMENT 9.1
Appeal Decision Document Template

ADMINISTRATIVE APPEAL DECISION
CLEAN WATER ACT

[Project Name]
[County Name] COUNTY, [State]
[DISTRICT NAME] DISTRICT
FILE NUMBER [ORM2 ID NUMBER]

DATE: [Date]

Review Officer: [Name], U.S. Army Corps of Engineers (Corps), South Pacific Division,
San Francisco, California

Appellant: [Name] (Appellant)

District Representative: [Name], U.S. Army Corps of Engineers, [District Name] District
(District)

Authority: [Section 10, 404, and/or 103]

Receipt of Request for Appeal: [Date]

Appeal Meeting and Site Visit Date: [Date]

Summary of Decision:

Background Information:

Appeal Evaluation, Findings and Instructions to the District Engineer (DE):

REASON 1:

FINDING:

ACTION:

DISCUSSION:

*Current Approved Version: 12/19/2012. Printed copies are for "Information Only." The controlled
version resides on the SPD QMS SharePoint Portal.*

REASON 2:

FINDING:

ACTION:

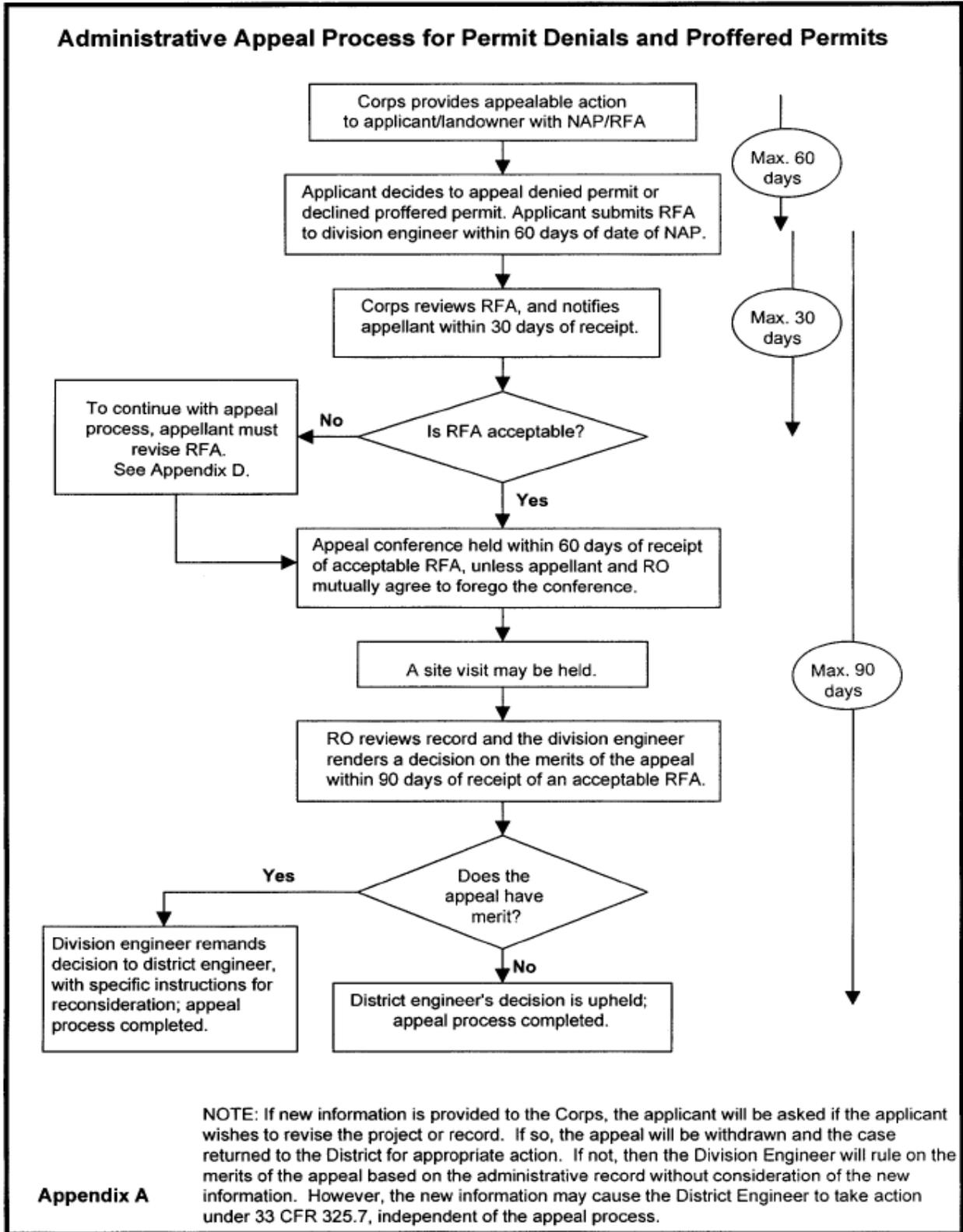
DISCUSSION:

[Repeat for reason 3, 4, etc.]

**INFORMATION RECEIVED AND ITS DISPOSAL DURING THE APPEAL
REVIEW:**

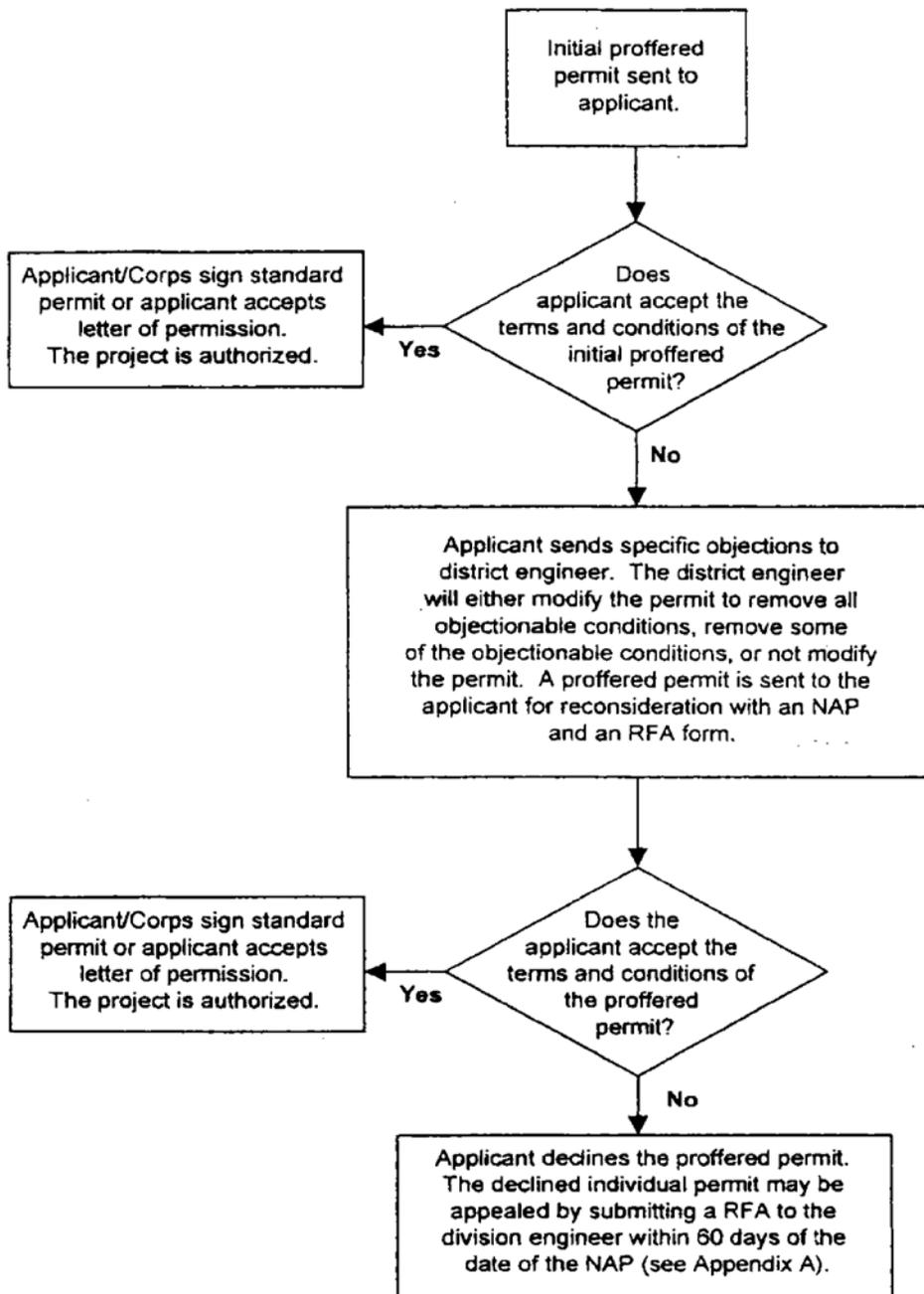
CONCLUSION:

[Signature]



Flowchart 10.1 Administrative Appeals Process for Permit Denials and Proffered Permits

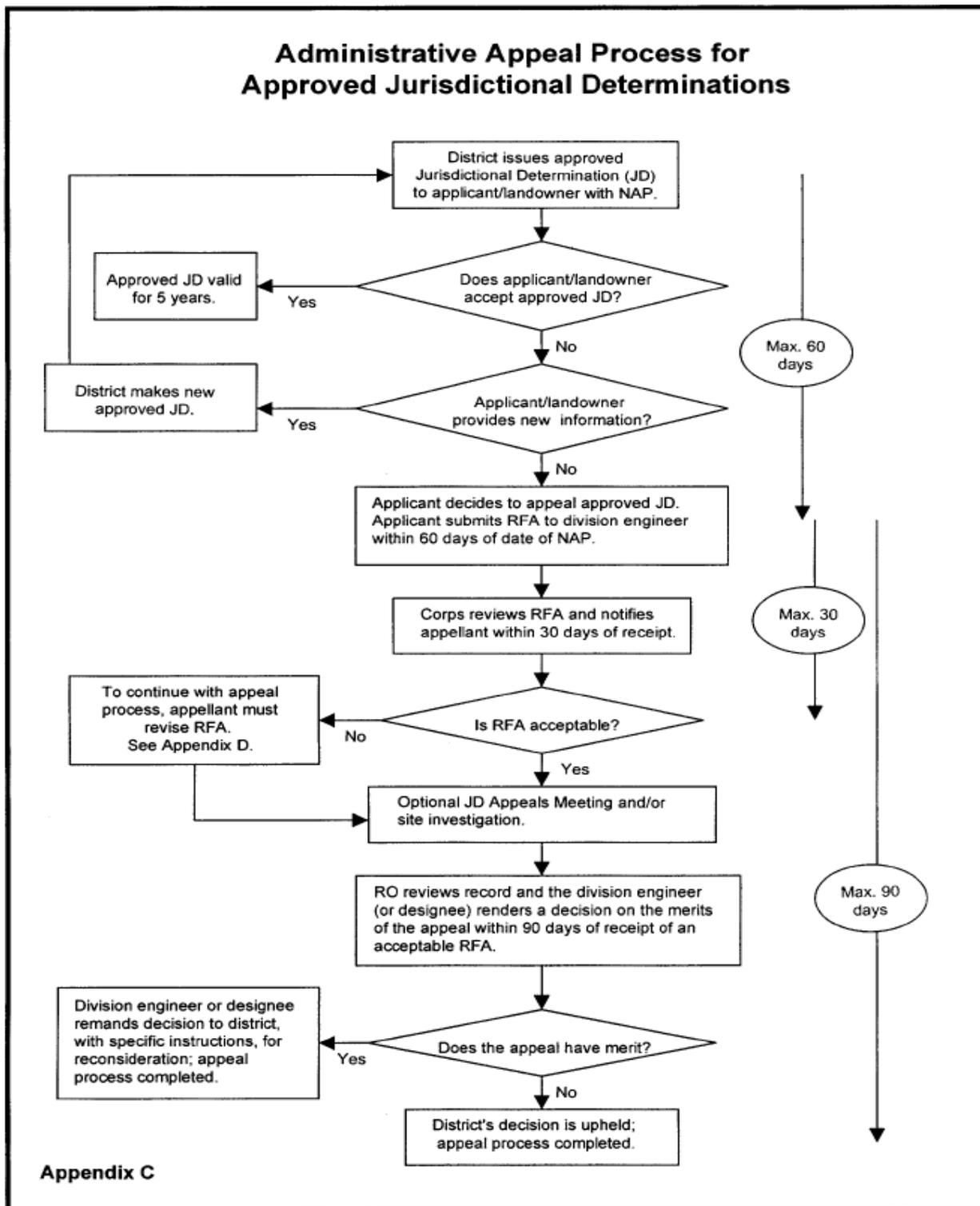
Applicant Options with Initial Proffered Permit



Appendix B

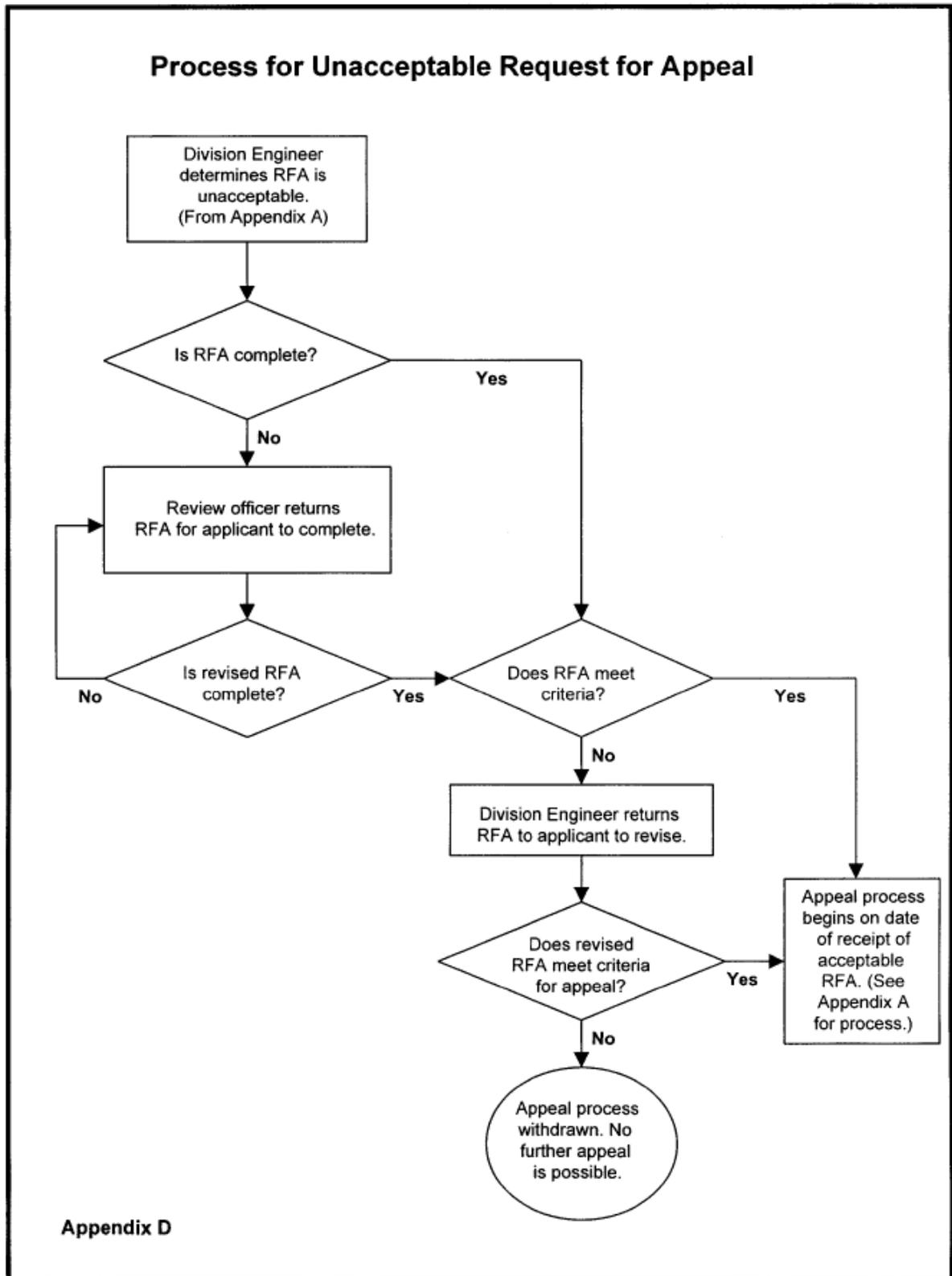
Flowchart 10.2 Applicant Options with Initial Proffered Permit

Administrative Appeal Process for Approved Jurisdictional Determinations



Flowchart 10.3 Administrative Appeals Process for Approved Jurisdictional Determinations

Current Approved Version: 12/19/2012. Printed copies are for "Information Only." The controlled version resides on the SPD QMS SharePoint Portal.



Flowchart 10.4 Process for Unacceptable Request for Appeal

Current Approved Version: 12/19/2012. Printed copies are for "Information Only." The controlled version resides on the SPD QMS SharePoint Portal.