

LEGISLATIVE AND POLICY UPDATES AFFECTING THE TEXAS COAST

GALVESTON DISTRICT WINTER STAKEHOLDERS MEETING

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Plan Formulation sub-CoP Lead
27 February 2018



US Army Corps
of Engineers



TODAY'S TOPICS

- Beneficial Use of Dredged Material Pilot Projects
- 33 USC § 408
- Infrastructure Initiative



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SECTION 1122 OF WRDA 2016 BENEFICIAL USE OF DREDGED MATERIAL PILOT PROGRAM



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Beneficial Use of Dredge Material Pilot Program

Non-Federal Sponsor Nomination of Pilot Projects

In accordance with the provisions of *Section 1122(a)-(h) of the Water Resources Development Act of 2016*, and as described in the *Federal Register notice published on February 9, 2018*, non-Federal sponsors are invited to nominate projects for the beneficial use of dredged material pilot program.

Instructions: Proposals must address the following questions to the fullest extent possible. **Please include a Point of Contact for proposals.**

Proposals may be submitted in any format, although for ease of processing, submitting your proposal in electronic format as an attachment to the email link below is preferred.

Beneficial Use of Dredged Material Pilot Program Proposal Information Requirements:

1. Name and location of the proposed project.
2. Purpose of the proposed project (see paragraph 5 of the Implementation Guidance).
3. Description of the proposed project, including more detail on how material will be used beneficially to meet project purposes identified in 2 above.
4. The name of all non-federal interests planning to act as the sponsor, including any non-federal interest that has contributed to or is expected to contribute toward the non-federal share of the proposed beneficial use project.
5. List the authorized U.S Army Corps of Engineers (Corps) water resources development project(s) that the proposed beneficial use project is associated with.
6. Provide an estimate, to the extent practicable, of the total beneficial use project cost, and the federal and non-federal share of those costs.
7. Describe, to the extent practicable, an estimate of the anticipated monetary and non-monetary benefits of the proposed beneficial use project with regard to the environmental, economic, and social benefits of the project.
8. Describe if local support exists for the proposal.
9. Statement of the non-federal interest's financial ability to provide a share of the project costs.

Questions, comments, and completed proposals can be emailed to the Corps **HERE**.

Proposals must be received by 12 March 2018.

If you wish to mail a proposal to the Corps, it must be postmarked no later than 12 March 2018. We respectfully request that you **contact the Corps prior to mailing it to insure expedient delivery and consideration.**

Headquarters, U.S. Army Corps of Engineers
Directorate of Civil Works
Operations and Regulatory Community of Practice
Attention: CECW-CO-OD
441 G Street, NW, Washington, DC 20314

http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/wrda2016/beneficial_use_dredge_mat/

http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/wrda2016/wrda2016_impguide/



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SECTION 1122 OF WRDA 2016 IMPLEMENTATION CONSIDERATIONS

“...the Secretary shall carry out the pilot program in a manner that...”

- **Maximizes the beneficial placement** of dredged material from Federal and non-Federal navigation channels;
- **Incorporates**, to the maximum extent practicable, **2 or more** Federal navigation, flood control, storm damage reduction, or environmental restoration projects;
- Coordinates the mobilization of dredges and related equipment, including **through the use of such efficiencies in contracting and environmental permitting as can be implemented under existing laws and regulations; Fosters** Federal, State, and local **collaboration**;
- **Implements best practices** to maximize the beneficial use of dredged sand and other sediments;
- Ensures that the use of dredged material is **consistent with all applicable environmental laws**.



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SECTION 1122 OF WRDA 2016 PILOT PROJECTS PURPOSES

Examples:

- Reducing storm damage to property and infrastructure
- Promoting public safety



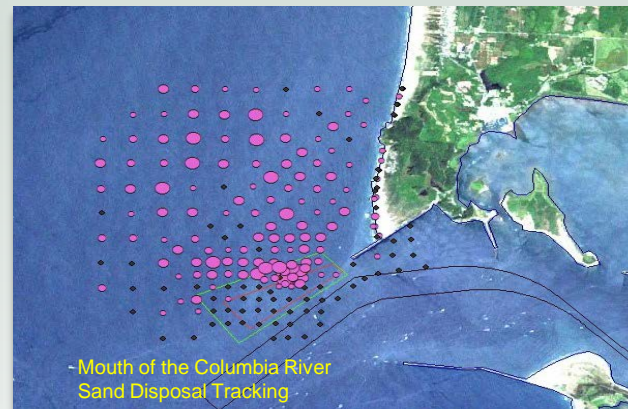
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SECTION 1122 OF WRDA 2016 PILOT PROJECTS PURPOSES

Examples, Cont:

- Protecting, restoring, and creating aquatic ecosystem habitats
- Stabilizing stream systems and enhancing shorelines



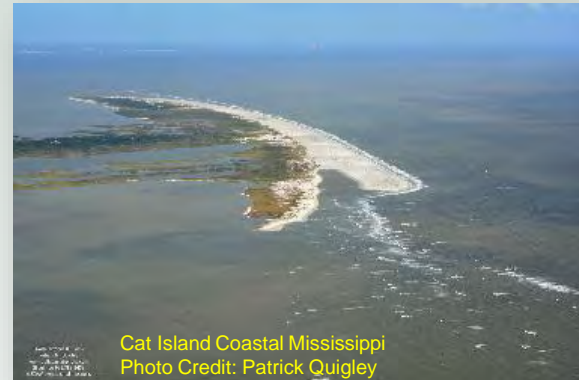
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SECTION 1122 OF WRDA 2016 PILOT PROJECTS PURPOSES

Examples, cont:

- Promoting recreation
- Supporting risk management adaptation strategies



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SECTION 1122 OF WRDA 2016 PILOT PROJECTS PURPOSES

Examples, cont:

- Reducing the costs of dredging and dredged material placement, such as projects that use dredged material for:



- Construction or fill material
- Civic improvement objectives
- Other innovative uses and placement alternatives that produce public economic or environmental benefits



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SECTION 1122 OF WRDA 2016 PILOT PROJECT COST SHARING

- The **incremental costs above the Federal standard for transporting and depositing material from federal projects will be borne entirely by the Federal government**
- Costs for dredging additional material, dredging material from a non-federal navigation project or for **additional activities (e.g., wetland creation) must be cost-shared** according to Sec 204 of WRDA 1992, as amended
- HQUSACE, in consultation with ASA(CW), will recommend funding sources for planning and implementation of each pilot project



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SECTION 1122 OF WRDA 2016 PILOT SELECTION PROCESS TIMELINE



**Federal Register Notice 30-day Submission Period Begins
(Feb 9, 2018)**



**Non-Fed Proponents Submit Pilot Project Proposals
(March 12, 2018)**

**USACE Regional Teams Evaluate Proposals
(April 2018)**

**HQUSACE Develops National Evaluation
(May 2018)**

**HQUSACE RECOMMEND 10 PROJECTS TO
Asst. Secretary of the Army (CW) (June 2018)***

*Note WRDA 2016 is an authorizing document and does not provide appropriations for the execution of the 10 selected projects. Implementing those projects will require separate appropriations by Congress and is not guaranteed.



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SECTION 1122 OF WRDA 2016 SELECTION CRITERIA

HQ USACE Selection of 10 Pilot Projects

- **The environmental, economic, and social benefits of the projects, including monetary and non-monetary benefits**
- **The need for diversity of project types and geographical project locations**



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SECTION 1122 OF WRDA 2016 WHERE TO SUBMIT A PROPOSAL

Proposals, Comments or Questions can be submitted by email at:

Section-1122-Beneficial-Use-of-Dredged-Material@usace.army.mil

OR

Proposals can be submitted by regular mail (postmarked by 12 March 2018) at:

Headquarters, U.S. Army Corps of Engineers
Directorate of Civil Works
Operations and Regulatory Community of Practice
Attention: CECW-CO-OD
441 G Street, NW, Washington, DC 20314

We recommend email, but if you choose to send by regular post please let a Corps of Engineers employee know, for record-keeping. Mail to HQUSACE can be delayed by security inspections.



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33 USC § 408 AND *DRAFT* EC 1165-2-220




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www.usace.army.mil/missions/civil-works/Section408

HEADQUARTERS



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Section 408

Through the Civil Works program, the US Army Corps of Engineers (USACE) serves the public by providing the Nation with quality and responsive management of the Nation's water resources. As a result, USACE, in partnership with stakeholders, has constructed many Civil Works projects across the Nation's landscape. Given the widespread locations of these projects, many embedded within communities, over time there may be a need for others outside of USACE to alter or occupy these projects and their associated lands. Reasons for alterations could include improvements to the projects; relocation of part of the project; or installing utilities or other non-project features.

In order to ensure that these projects continue to provide their intended benefits to the public, Congress mandated that any use or alteration of a Civil Works project by another party is subject to the approval of USACE. This requirement was established in Section 14 of the Rivers and Harbors Act of 1899, which has since been amended several times and is codified at 33 USC 408 (Section 408).

Section 408 provides that USACE may grant permission for another party to alter a Civil Works project upon a determination that the alteration proposed will not be injurious to the public interest and will not impair the usefulness of the Civil Works project. USACE has established the following policy and procedures for implementing Section 408.

Below is the list of documents that contain USACE's current policy and procedures for Section 408:

- Engineer Circular (EC) 1165-2-216, Policy and Procedural Guidance for Processing Requests to Alter U.S. Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408, found at www.publications.usace.army.mil by searching under Engineer Circulars.
- Memorandum, Interim Guidance on Section 408 Decision Level, 10 November 2016, found through this [direct link](#).
- Memorandum, Interim Guidance on Applicability of EC 1165-2-216 within Navigable Waters, 16 June 2017, found through this [direct link](#).
- Memorandum, Implementation Guidance for Section 1156(a)(2) of the Water Resources Development Act of 2016 (WRDA 2016), Contributed Funds, 27 June 2017, found at <http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/wrda2016/> under implementation guidance.
- Memorandum, Delegation Authority for District Commanders for Section 408, 25 August 2017, found through this [direct link](#).
- Memorandum, Extension of EC 1165-2-216, Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 U.S.C. 408, 07 November 2017, found through this [direct link](#).
- Director's Policy Memorandum, Section 408 – Interim Changes for Immediate Implementation and Future Policy Revisions, 12 January 2018, found through this [direct link](#).

Announcements:

USACE has completed a new draft policy document (EC 1165-2-220) intended to replace the current documents above. A fact sheet with additional information can be found at this [direct link](#). USACE will provide an opportunity for all interested parties to provide feedback on the revised USACE procedures (draft EC1165-2-220) for processing requests pursuant to Section 408. A Federal Register notice will be posted on February 5 announcing the availability of the USACE draft EC and initiating a 30-day comment period. The draft EC can be found at this [direct link](#) and at <http://www.regulations.gov> (docket number COE-2018-0003). Comments* on the draft EC 1165-2-220 can be submitted by the following methods identified by docket number COE-2018-0003:



33 USC § 408 AND *DRAFT* EC 1165-2-220

- Proposed improvements:
 - Incorporate interim guidance
 - Eliminate duplication of effort by aligning Section 408 decisions with the USACE Real Estate outgrant and certain Regulatory Section 10 processes
 - Delegate all Section 408 decisions to District and MSC offices
 - Create multi-phased review option for requesters who want to pursue Section 408 permissions in milestones/smaller phases
 - Implement review and notification timelines in accordance with WRDA 2016
 - Create new appendices that include more detailed processes, standard conditions, and templates to improve consistency and efficiency



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PUBLIC COMMENTS –NOW DUE APRIL 6, 2018

- Federal eRulemaking Portal: <http://www.regulations.gov>
- Email: HQ-Section408@usace.army.mil and include in the subject line:
 - The docket number (COE-2018-0003) or
 - “EC 1165-2-220 Comments”
- Mail (no hand delivery/courier):

Headquarters, US Army Corps of Engineers
ATTN: CECW-CE/3E62
441 G Street NW
Washington, DC 20314-1000



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THE ADMINISTRATION'S INFRASTRUCTURE INITIATIVE



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<http://www.usace.army.mil/Missions/Civil-Works/infrastructure/>

The Administration's Infrastructure Initiative

One of the top priorities of the Administration is to rebuild and modernize the Nation's infrastructure. The Administration's goal is to seek and secure long-term reforms on how infrastructure projects are regulated, funded, delivered, and maintained. By streamlining project delivery and removing barriers, the Administration hopes to incentivize and expedite the delivery of our Nation's infrastructure.

The President has proposed a \$200 billion Federal commitment to stimulate at least \$1.5 trillion in new infrastructure investment. While much of the public and congressional interest regarding the Administration's Infrastructure Initiative has been focused on the legislative principles, the Administration is also addressing infrastructure delivery through a range of policy and regulatory changes.

USACE fully supports innovative approaches and changes that will result in improvements in the delivery of our Nation's infrastructure needs. The Infrastructure Initiative is an opportunity for USACE to apply new financing approaches and streamline business processes that will enable needed change to meet current and future needs of the Nation.

In addition to the Administration's legislative proposal, USACE is also developing a work plan that identifies improvements that do not require legislation but could be resolved through policy or administrative changes.

Infrastructure Legislative Principles

The Administration has identified needed long-term reforms on how infrastructure projects are regulated, funded, delivered, and maintained through *infrastructure legislative principles* released on February 12, 2018. The principles are not legislation but they intended to form the basis for a comprehensive infrastructure bill. As such, the principles are conceptual and may change during the development of legislation.

The primary focus of USACE is on five areas that would directly involve Civil Works missions:

- Water Resources - Remove barriers and create innovative delivery models
- Inland Waterways - Promote opportunities for non-federal investments
- Incentives - Incentivize non-federal investments through grants
- Water Infrastructure Finance and Innovation Act (WIFIA) - Incentivize non-federal investments through low-cost federal loans
- Permitting - Streamline permitting processes

Related Documents

The documents listed below are related to the Administration's infrastructure agenda.

- Administration's Infrastructure Legislative Principles
- White House Fact Sheet on Infrastructure
- FY18 Budget Fact Sheet on Infrastructure
- Executive Order 13766: Expediting Environmental Reviews and Approvals for High Priority Infrastructure Projects, 1/24/2017
- Executive Order 13777: Enforcing the Regulatory Reform Agenda, 2/24/2017
- Executive Order 13783: Promoting Energy Independence and Economic Growth, 3/28/2017

Press Releases

USACE press releases related to the Administration's infrastructure agenda:

- USACE supports the administration's Infrastructure Initiative
- U.S. Army Corps of Engineers issues report on Nationwide Permits



ADMINISTRATION'S INFRASTRUCTURE INITIATIVE

BACKGROUND

- Administration's goal = seek and secure long-term reforms on how infrastructure projects are regulated, funded, delivered, and maintained.
- President has proposed a \$200B federal commitment to produce a \$1.5T overall investment in infrastructure.
- The infrastructure legislative principles were publicly released on 12 February 2018 and can be found online.

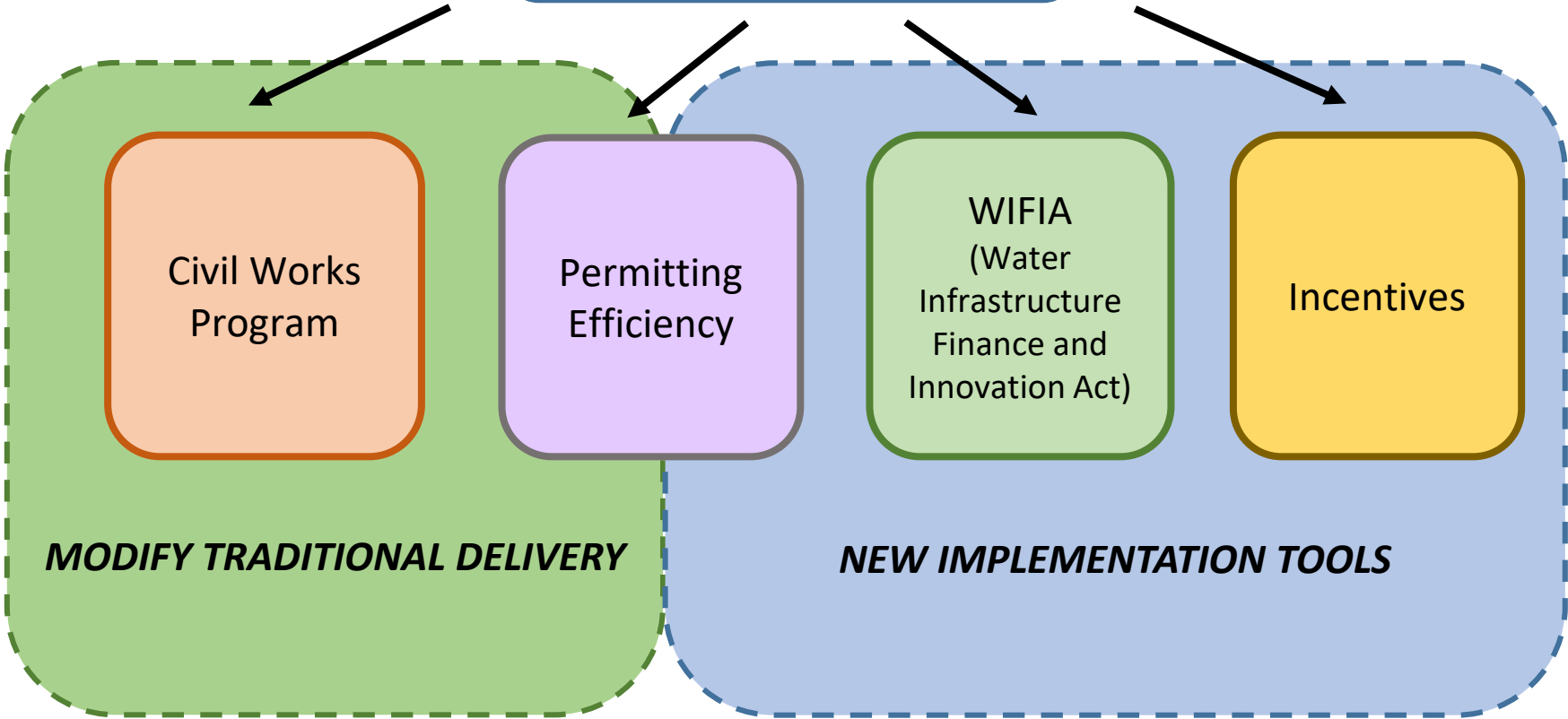


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ADMINISTRATION'S INFRASTRUCTURE INITIATIVE

USACE Water Resources Infrastructure Program



ADMINISTRATION'S INFRASTRUCTURE INITIATIVE

OPPORTUNITIES FOR INPUT

- USACE is interested in gaining feedback from stakeholders on the Administration's infrastructure plan and ideas on removing impediments that prevent successful implementation of projects.
- Feedback can be provided directly to the USACE Infrastructure Team at: CW.Infrastructure.Team@usace.army.mil.
- National and regional level engagements are also being planned by USACE.
- A USACE website on the Infrastructure Initiative has been established at: <http://www.usace.army.mil/Missions/Civil-Works/Infrastructure/>.



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Questions?



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