Keeping Up With Policy

Delivering on our Commitments

Jeanette Gallihugh
Senior Policy Advisor, HQUSACE
Planning & Policy Division
2015 National Planning Community of Practice Training
3 June 2015
Session Overview

- WRRDA 2014
- Policy Highlights
- Policy Updates - PGN; SMARTGuide; Planning Bulletins
- Evolving Levee Safety Issues
Planning Guidance

- NATIONAL POLICY
  - LAWS
  - RULES AND REGULATIONS
  - EXECUTIVE ORDERS
  - PRINCIPLES AND GUIDELINES

- Water Resources Development Acts (WRDA)
  - Implementation guidance for WRDA Sections

- Energy and Water Development Appropriations Acts
Principles and Guidelines (P&G)

- Economic and Environmental Principles & Guidelines for Water and Related land Resources Implementation Studies (P&G), Water Resources Council, 1983
- WRDA 2007, Section 2031 calls for revisions to P&G within 2 years
  - National priorities: maximize sustainable economic development, avoid unwise use of floodplains, protect & restore functions of natural systems
  - Considerations: include R&U, public safety, value to low income communities, nonstructural solutions, interaction w/ other projects, IWRM, projects justified by public benefits
Corps Planning Guidance

- Army Regulations (AR)
- Engineer Circulars (EC)
- Engineer Regulations (ER)
- Engineer Pamphlets (EP)
  - Ex: EP 1165-2-1: Digest of Water Resources Policies
- Engineer Manuals (EM)
- Policy Guidance memos
  - Planning Bulletins (CECW-CP)
  - WRDA/WRRDA Implementation Guidance
Planning plays a vital role in supporting the Corps of Engineers Civil Works water resources development mission. Through planning activities, including feasibility studies, General and Limited Revaluation Studies, Continuing Authorities Program studies, and Post Authorization Change studies, Corps planners help decision-makers identify water resources problems, conceive solutions to them and compare the importance of the inevitable conflicting values inherent in any solution.

The Planning Community Toolbox includes a wealth of information for planners and project delivery teams, including the policy, guidance, processes, and tools that are used every day in planning.

**Hot Topics**

* Single Phase Feasibility Study Resources - Resources for District Project Delivery Teams and non-Federal sponsors beginning single phase feasibility studies post WRRDA 2014. Materials such as fact sheets and memos can be customized by the teams as needed and reflect single phase feasibility studies (no reconnaissance phase), the 3x3 rule, and SMART Planning Milestones and Processes per WRRDA Sections 1001 and 1002. If you have questions or additions to this list of tools, please let us know at hoplanning@usace.army.mil

* 2015 PCoP Training - Working Together to Modernize Planning - The Planning Community of Practice is proud to announce a Community-wide training opportunity. This 3-day workshop in Atlanta, GA on June 2-4 will consist of large group lecture and discussion, exercises, and break-out sessions. Participants are expected to bring back materials, information and key training tools to colleagues in their District/MSC. For more information, please see the Planning Community of Practice SharePoint Site.

**Policy and Guidance Updates**

* WRRDA 2014 Information
* Talking Points & Frequently

**Planning Community Webinars**

* All Upcoming & Recent Webinars

**Other News**

* Flood Risk Management Newsletter - April 2015 (03/31/15)
Planning Guidance

- 6-Step Planning Process
- Planning Fundamentals
- Principles and Guidelines
- Guidance Type
  - Economic Guidance Memoranda (EGM’s)
  - Planning Bulletins
  - Planning Engineer Circulars (EC’s)
  - Planning Engineer Manuals (EM’s)
  - Planning Engineer Pamphlets (EP’s)
  - Planning Engineer Regulations (ER’s)
- Planning Guidance Notebook
- WRDAs and other Key Laws
- Mission Area
  - Aquatic Ecosystem Restoration
  - Dam and/or Levee Safety
  - Flood Risk Management
    - Coastal
    - Inland
  - Hydropower
  - Navigation
    - Coastal
    - Inland
  - Recreation
  - Water Quality
WRRDA 2014
Significant Provisions and Implementation Guidance
What is WRRDA?

- Water Resources Reform and Development Act became law in June 2014.
- Prior to 1986 also called River and Harbor Act; Flood Control Act; Water Resources Act.
- Important as Corps projects are typically individually formulated, developed, authorized.

► Authority. Not Appropriations.
Bottom Line

► Programmatic reform (vice project focus), hence WRRDA, more complex provisions.
► Extensive reporting requirements.
► Extensive level of effort required to implement, involving OASA(CW), HQs, and input from MSCs, Districts and IWR in order to address legal and policy implications and track progress.
► Public input from listening sessions.
► Working key provisions that have stakeholder, sponsor and congressional interest.
WRRDA Implementation Process

1. **WRRDA Passed**
   - POCs/SMEs for Implementation
     - Guidance (IG) assigned

2. **POCs develop PDTs to draft IG (as needed)**
   - Guidance drafted

3. **Circulate draft IG with RITs and functional elements (as needed)**

4. **Draft IG reviewed by HQ Policy and Legal**

5. **Senior Leadership Engagement**
   - (for significant policy issues)

6. **Policy sends draft IG to ASA(CW) for coordination**

7. **Appropriate USACE Senior Leader signs IG**

8. **IG posted online**
Implementation Guidance (IG)

- Execution of law is an Executive Branch responsibility.
- Purpose of WRRDA IG: Determine how Administration/Corps will proceed under new law in light of current policies and procedures; or to
  - Develop new policies and procedures where needed to implement the law.
- Intent is to ensure consistent application of the law.
- IG issued in the form of Memorandums, EC’s or ER’s.
- Not all provisions in the law will be funded or implemented as a matter of policy.
Implementation Process

- CWP has overall management lead and general policy oversight and tracking.
- SME’s identified for preparing IG.
- SMEs draft guidance and identify policy issues, if any, that need to be addressed by senior leadership before guidance can be finalized.
- RITs have lead for preparing project specific guidance.
- Briefings to engage senior leaders.
- Unfunded provisions have low priority.
Implementation Process

- IG undergoes HQ policy and legal review to ensure appropriateness and consistency before it goes to ASA(CW) for concurrence.
- IG is developed in coordination with the OASA(CW) as needed; CWP manages the coordination; OASA(CW) internal coordination includes Army General Counsel.
- IG is not final until approved by OASA(CW).
Implementation Process

- Considerations for Implementation Guidance.
  - CW Policies and Procedures
  - Budgetary Policy
  - What the legislation says and what it does not say
  - For projects, what the project is and its history; any policy issues?
  - The project budgeting history, adds or in budget?
  - Any guidance provided by HQ/ASA(CW)?
  - Legal sufficiency
  - Coordination with appropriate functional elements

- Many questions to be answered
Challenges

- Managing Internal/External Expectations.
- Differences of Interpretation/Intent of Law.
- Multiple laws or multiple WRRDA provisions may apply to a study or project.
- Uncertain how other agencies will implement WRRDA requirements.
- Responsiveness.
- Time Consuming.
Status of Key Provisions

Topic: Project Planning

- **Section 1001 – Vertical Integration and Acceleration of Studies.** "3x3x3". IG issued 9 April 2015. Report to Congress in 18 months and in 4 years on status of implementation.

- **Section 1002 – Consolidation of Studies.** IG issued 9 April 2015. Budget Guidance too.

- **Section 1005 – Project Acceleration.** Initiating discussions with resource agencies. Also requirement to survey use of categorical exclusions and establish new ones if necessary.

Status of Key Provisions

Topic: Non-Federal Implementation

- **Section 1014 – Study and Construction of Water Resources Projects by non-Federal Interests.** Draft EC under preparation. Consolidates existing authorities. Using non-Federal or Corps funds and can seek reimbursement or credit for excess funds expended.

- **Section 1043 – Non-Federal Implementation.** Pilot Program to evaluate the cost-effectiveness of non-Federal interests to carry out feasibility studies and construction using non-Federal or Corps funds. Guidance needs to be consistent with Section 1014. Directed to establish pilot program in 180 days - not meet. Report back to Congress in 2 and 5 years on results of Program. Authority expires in 5 years.
Status of Key Provisions

Topic: Credit/Contributed Funds

- **Section 1018 – Credit for In-kind Contributions.** Revised ER 1165-2-208 being coordinated with OASA(CW). Requires publication in Federal Register.

- **Section 1020 – Transfer of Excess Credit.** Need comprehensive plan approved by ASA(CW) first. Report to Congress in two years and every two years after on use of this authority. Authority expires in 10 years.

- **Section 1015 and 1023 – Contributed Funds.** IG issued 11 February 2015. Changes timing of congressional notification and adds allows non-profits to contribute funds and allows for acceptance of funds if 902 limit exceeded.
Status of Key Provisions

Topic: Alternative Resource Delivery


- **Title V Subtitle C – Innovative Financing Pilot Projects (Water Infrastructure Finance Innovation Authority, “WIFIA”).** Separate funding accounts for secured loans and loan guarantees will need to be set up in order to use this provision. Need continued coordination with ASA and OMB to achieve. Report results to Congress after implementation.
Status of Key Provisions
Topic: Deauthorization

Status of Key Provisions
Topic: Levee Safety

- **Title III – Levee Safety.** Have draft implementation plan. Report on levee safety initiative one year after enactment and then biennially.

- **Section 3013. Levee Vegetation.** Asks for another review of our policy. Guidance under preparation. Revise guidelines in 18 months and Report to Congress in 18 months if miss deadline.
**Status of Key Provisions**

**Topic: Regulatory**

- **Section 1006 – Expediting the Evaluation and Processing of Permits.** Amends Section 214 of WRDA 2000 to include natural gas and public utility companies. Final guidance under preparation. Applies to Sec. 408. Requires reporting at the end of each fiscal year on use of authority.

- **Section 1007 – Expediting Approval of Modifications to Corps Projects (33 USC 408) Guidance.** Law requires we establish process and provide for public review. Guidance issued prior to WRRDA’14 – reviewing.
Where to find WRRDA Info

Website has a table of all WRRDA provisions and the Section Number is linked to the implementation guidance when done.

Water Resources Reform and Development Act (WRRDA) of 2014

President Obama signed the Water Resources Reform and Development Act (WRRDA) of 2014 into law on June 10, 2014. WRRDA is the primary legislation by which Congress authorizes the Corps of Engineers’ key civil works missions, including navigation, flood risk management and environmental restoration. The authorities provided in WRRDA help USACE continue to provide value to the nation in developing and maintaining the nation’s waterways and harbors, reducing damages from storm events, and restoring the environment.

USACE will develop “Implementation guidance” for the provisions in WRRDA 2014, in coordination with the Assistant Secretary of the Army (Civil Works), which will provide the policies and procedures to be used in implementing the new law. All implementation guidance will be available publicly and can be found in the implementation guidance section below.

WRRDA is strictly an authorizing legislation; it does not include funding. The funding of WRRDA-authorized studies and projects is accomplished separately as part of the annual appropriations process.

Listening Sessions

The USACE will host four listening sessions to receive public input on the development of implementation guidance for WRRDA 2014. All public oral comments made during the listening sessions will be recorded. The focus of each listening session is for the USACE to hear from our stakeholders and the public. These will not be discussions with USACE officials, or question and answer sessions. Any attendees who are unable to participate in one or more of the listening sessions are invited to submit written comments to: wrrda@usace.army.mil.

The slides, audio recording, and written transcript of each listening session and any written comments made as part of the listening sessions will be made publicly available via the official USACE WRRDA 2014 website. Please note that the audio recordings, transcripts, and written comments will contain the names of those who comment, along with any other personal information he or she shares when commenting. You do not need to provide your name or other personal information. Written correspondence sent to wrrda@usace.army.mil will not be posted publicly unless the commenter indicates that they would like their emailed comments to be posted for the public.

August 13, 2014 Listening Session #1 – Deauthorizations & Backlog Prevention, Project Development & Delivery

- Slides
- Transcript
- Audio Recording

August 27, 2014 Listening Session #2 – Alternative Financing, Credits

- Instructions to Join
- Slides
- Transcript
- Audio Recording

Implementation Guidance

Implementation guidance of WRRDA 2014 will be published as it becomes available.

- Implementation Guidance
  - 28 May 2015 - revised Section 4003(e)
  - 27 May 2015 - Section 1035 added
  - 20 May 2015 - Section 2006 added

Written Comments

Written comments may be submitted electronically to: wrrda@usace.army.mil. These comments will not be posted publicly unless the commenter indicates that they would like their emailed comments to be posted for the public.

- 2014 Proposals that were submitted to the U.S. Army Corps of
WRRDA 2014 Implementation Guidance

To view specific guidance on each section of WRRDA 2014, click on the hyperlinked provision. If the provision is not hyperlinked, guidance is in the process of being developed.

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Session Overview

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  - Evolving Levee Safety Issues
Planning Guidance Notebook

Comprehensive update – touching all parts of the regulation

BUT, it’s a restrained update (I’ll explain)

Schedule:

- Content Development - ongoing
- Review and Resolution - Jul-Oct 2015
- Final editing, formatting, publication – Oct-Dec 2015
Intent of the Update

- “Baseline” update that captures new policies since 2000
- Incorporate WRRDA 14 guidance
  - Single phase studies
  - 3x3x3
- App G&H substantially revised to reflect SMART Planning milestones and other interim guidance
- More attention to collaboration, systems analysis, risk-informed decisions, and high visibility topics (next page)
- Emphasize formulation to balance the attention given to NED evaluation
- Does not consider PR&G implementation (Congressional prohibition)
New and/or Elevated Topics

- Explain shift from damage reduction to risk management in flood and coastal storm studies/projects
- Climate change adaptation, including relative sea level
- Incorporate new work on life-safety evaluations
- Define and describe
  - Social vulnerability
  - Environmental Justice
  - Ecosystem Goods & Services
  - Resiliency and sustainability
  - Natural and nature based features
- New water supply rulemaking (will be withheld from the update)
- Rewrite of non-structural plans discussion
- Clarify use of multi-criteria decision analysis
Related Activities/Opportunities

- Watershed Planning Bulletin in development
- CWRB SOP
- Updating the Planning Manual
- Next Planning & Policy Update Priorities (subject to funding)
  - EP 1165-2-1, the Policy Digest;
  - ER1165-2-131 Local Cooperation Agreements;
  - ER 1165-2-119 Modifications to Completed Works;
  - ER 200-2-2 NEPA Compliance
- Opportunities – (Planning Support to Other Actions)
  - Engineering & Design Reg ER1110-2-1150 (E&C reworking draft that was paused by CWT)
  - Floodplain Management ER 1165-2-26
  - Flood Risk Analysis ER1105-2-101 and EM 1110-2-1619
  - Life cycle cost management
  - CW Review EC
  - Many others
Evolving Levee Safety Policies

Tammy Conforti
Levee Safety Program Manager
2015 National Planning Community of Practice Training
June 3, 2015
Topics

- Implementing a Risk-informed Program
- USACE-FEMA Partnership
- Risk Communication
- Levee Safety Program Policy
- Risk Informed Design
- Levee Alterations by Others
- National Levee Safety Program (WRRDA 2014)
“To Sum Up” Lessons on Risk Concepts

Benefits
- Understanding of Infrastructure Greatly Improved
- Better Decisions
- More Effective Communication

“Eye-Openers”
- Standards Based Approach Inadequate
- Risks are Not Intuitive
- Risks are Not Evenly Distributed
- It’s a Marathon, Not a Sprint!
Building The Risk Expert

- Systems Thinker
- Integrator of and Expert in Multiple Disciplines
- Critical Thinker
- Decision Oriented
- Makes Case with Evidence

I’m kind of a big deal...
USACE-FEMA Memo of Understanding (signed Nov 2014)

- Purpose – Formalize the commitment for alignment of levee activities, information, and messaging
- Content – Coordination of policies, direct exchange of information for accreditation, consistent information sharing with sponsors and communities, and coordination for data management

USACE-FEMA Memo of Understanding (signed Nov 2014)

- Continue coordination as policies and activities evolve
- Both agree to use the National Levee Database as the central repository of levee information
- USACE will ensure that each time it conducts a risk assessment for a levee system, it will also provide a determination on levee performance to FEMA for NFIP mapping purposes
- USACE will identify when a levee system meets or does not meet a specified subset of requirements in 44 CFR 65.10 for inspections and screenings
Risk Communication Guidance

- USACE Guidance for engaging sponsors and FEMA in Levee Safety Program activities (includes communicating risks associated with levees):
  - Placing information in a risk context
  - Focusing on risk factors and risk reduction actions

- Objectives:
  - Improve public sponsor engagement in and knowledge of USACE levee safety activities
  - Develop increased understanding of benefits and risks of levee systems
  - Promote actions to manage risks
  - Build foundation for shared responsibilities of solutions
Levee System Summary

- Resource document, not the only communication tool
- One summary for each system
- Plain English – no jargon
- Coordinate with FEMA
- Coordinate draft with sponsor including risk reduction actions
- Post in NLD at completion
Opportunities

- Improve coordinated messages
- Improve relationships
- Link levee information in a risk context
- More joint participation with levee sponsors and communities
- Leverage ongoing activities – Silver Jackets and RiskMAP
- Share best practices and lessons learned

PLANNING SMART
BUILDING STRONG®
Challenges

- Numerous levee systems across the USA
- Ensuring information is current
- Focus on risk communication and risk reduction:
  - USACE’s primary relationship is with levee sponsor
  - FEMA’s primary relationship is with community
- Coordination of activities between the two agencies:
  - 10 FEMA Regions
  - 8 USACE Divisions
  - 41 USACE Districts

Comfort level with risk communication
Levee Safety Program Guidance

1. Organizational and programmatic policy
   ► Roles and responsibilities

2. Risk Assessments
   ► Inspections
   ► Methodology
   ► Risk characterization

3. Risk Management
   ► Risk management actions
     ► Plan Formulation
   ► Portfolio risk management

4. Risk Communication
Design and Construction of Levees

- Consider regional design approaches
- Consider performance expectations including operations, maintenance, flood-fighting efforts and associated documentation
- Use risk-based potential failure modes to establish design objectives and approaches
Alterations by Others to Civil Works Projects

- 33 USC 408
- Provides the Secretary of the Army authority to grant permission to alter a USACE civil works project if
  1. **Does not impair usefulness of the project**
  2. **Not injurious to the public interest**
Policy Purpose

- Improve consistency in the way USACE considers, processes, and documents decisions for requests for alterations to Civil Works projects.
- Create a process that is applicable to all types of Civil Works projects.
- Be transparent on what information is required.
- Create a process that can be tailored by districts to the appropriate scope, scale, and complexity of a proposed alteration.
Key Points

- Process is intended to be scalable, based on the scope and scale of the proposed alteration
- Process is district led
- Created some ways to streamline the process
- Coordination throughout the process is encouraged
New Legislation - WRRDA
National Levee Safety Program


- Broader than levees
Key Components

- Committee on Levee Safety – assess initiative effectiveness
- 1 time Levee Inventory/Review – using USACE risk assessment processes
- Levee Safety Initiative –
  - Levee Safety Guidelines
  - Hazard Potential Classification System
  - Technical Assistance and Materials
  - Public Education and Awareness
  - State/Tribal Levee Safety Programs (FEMA)
  - Levee Rehabilitation Assistance Program
- Recommendations for
  - National Dam and Levee Safety Program
  - Alignment of Federal Programs Related to Levees
  - Liability for Certain Levee Engineering Projects