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# **Cooperating Agencies and Section 1005 of the Water Resources Reform and Development Act of 2014**

**Project Acceleration (5 Mar 2018)  
-EISs, recommended for EAs**





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# Section 1005 of WRRDA 2014



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## PURPOSE

# Timely and Coordinated Environmental Review Process



- ✓ Final Biological Opinion or concurrence letter
- ✓ Water Quality Certification
- ✓ Fish and Wildlife Coordination Act Report or PAL
- ✓ CZMA Consistency Determination
- ✓ EFH concurrence
- ✓ SHPO/THPO concurrence or signed PA or MOA
- ✓ MMPA, CWA, CAA, etc.



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## Steps for a Timely and Coordinated Environmental Review Process

The PDT will identify all federal, Tribal, state and local government agencies that may have jurisdiction over the project or special expertise; be required by law to conduct or issue a review, analysis, or opinion for the project; or be required to make a determination on issuing a permit, license or approval for the project (COOPERATING OR PARTICIPATING AGENCY)

Develop a Public Involvement Strategy

-Required by Planning Guidance Notebook



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Prior to the AMM:

- ❖ Invite federal, Tribal, state and local government agencies to be Cooperating Agencies or Participating Agencies BY LETTER.
- ❖ Letter will have a deadline, usually within 30 days, for agency or tribes to respond.
- ❖ Letter will invite potential COOP/PART agencies to an interagency meeting to be held within 90 days of study start.





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Federal agency WILL be a cooperating agency unless informed by deadline that it cannot.

Only Reasons Agency Cannot:

- Federal agency has no jurisdiction or authority with respect to the project
- Has no expertise or information relevant to the project
- Does not have adequate funds to participate in the project
- Does not intend to submit comments on the project

**\*\*MUST BE IN WRITING\*\***

**If no written response received, the agency is a Cooperating Agency!**



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## First Interagency Meeting Within 90 Days:

- Develop a plan and schedule for a timely and coordinated public and agency review process
- Discuss studies and designs planned during feasibility and other studies required by COOP/PART agencies
- Include project sponsor and PDT in discussion
- **CONCURRENCE REQUIRED** of the plan and schedule by the Corps, project sponsor, and COOP/PART agencies
- Plan and schedule will be included in the Public Involvement Strategy and PMP.
- This is not a Scoping meeting.





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## Prior to TSP:

- WORK COOPERATIVELY and COORDINATE TO RESOLVE ISSUES
- Refer to the plan and schedule
- Relay available information to agencies
- May invite the COOP/PART agencies To TSP.





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**After TSP:** Concurrent review of the draft report/NEPA document including cooperating and participating agencies

## **After the Release of the Draft Feasibility Report/NEPA Document but Prior to the ADM:**

- ❖ NLT 45 days after the close of the public comment period, the PDT will reassess its schedule for completion of the environmental review process, in consultation with and the concurrence of each Cooperating and Participating agency and project sponsor.
- ❖ District commander may shorten or lengthen the schedule for good cause with concurrence of the affected COOP/PART agencies and project sponsor.
- ❖ Established schedule must be provided to COOP/PART agencies and the project sponsor and made available to the public.

**ADM-**Discussion of additional technical analysis or design





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## Issue Resolution Process

- A participating or cooperating agency or project sponsor may request a meeting to resolve issues that could delay completion of the environmental review process or a denial of any approval required for the study under applicable laws.
- Within 21 days of a request, the district WILL convene an issue resolution meeting with the relevant agencies and project sponsor and will notify all relevant participating and cooperating agencies of the request, including the issue(s) to be resolved and the date of the meeting.
- If no issue resolution within 30 days of meeting, elevate to ASA(CW). ASA(CW) will determine that all information necessary to resolve the issue has been obtained, the ASA(CW) will forward dispute to heads of the relevant agencies for resolution.



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- Penalties WILL be assessed if the federal jurisdictional agency fails to render its decision within the time constraints agreed at initial meeting or thereafter and includes limitations on the fiscal year and total funding transferred.
- An agency can avoid penalties if it notifies the Corps, Cooperating agencies and the project sponsor with an explanation
  - It has not received all necessary information or approvals
  - Significant new information including from public comments, requires additional analysis
  - Lacks the financial resources to complete the review, the amount of funding required to complete the review, and a justification as to why not enough funding is available to complete the review by the deadline. Then the Inspector General of the Cooperating agency is required to conduct a financial audit and submit the results to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives within 90 days after the audit is completed.

# WORKING WITH COOPERATING AGENCIES - BEST PRACTICES ACROSS USACE.

## LET'S HEAR FROM THE EXPERTS (YOU!)

USACE Collaboration & Public Participation  
Center of Expertise

Hal Cardwell, Seth Cohen, Andrea Carson



U.S. ARMY CORPS OF ENGINEERS

**Collaboration &  
Public Participation**  
CENTER OF EXPERTISE



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# QUESTION #1

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*In your experience,*  
How is working with **Cooperating Agencies**  
**different** than the regular engagement  
we might do with agencies?

*Raise your “hand” to share your story!  
Or write your answers in the chat box*

# ANSWERS:

*Working with Cooperating Agencies is different than other types of engagement because...*

- Cooperating agencies have an opportunity to review and comment on the draft and final NEPA docs *prior to public review*
- Cooperating agencies may be responsible for *specific elements* of the NEPA documentation
- More in-depth engagement is needed to get to an approval or decision



## QUESTION #2

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*In your experience,*

What are some of the **benefits** that you have found in working with CAs?

*Raise your “hand” to share your story!  
Or write your answers in the chat box*

# ANSWERS

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*Some of the **benefits** in working with CAs include...*

- Provides a grasp of the CAs position on the issue and provides opportunity to prepare for other similar comments from the public
- Helps to identify gaps in the analysis
- Different rules/regulations and perspectives are considered;
- CA may provide data/analysis for USACE; USACE may also provide data/analysis for the CA!

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# QUESTION #3

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*In your experience,*

What are some common **roadblocks**?

How did you **problem-solve** to overcome them?

*Raise your “hand” to share your story!*

*Or write your answers in the chat box*



# ANSWERS:

## *Common Challenges*

- ❑ Misunderstanding of roles, processes, and expectations; unproductive mtgs w/CA's
- ❑ Differing agencies timelines
- ❑ Different data/levels/rules about analysis?
- ❑ Decision-makers outside of the room

## *Suggested Solutions*

- ✓ MoU's at beginning of process; **Plan** how you will work together!
- ✓ Involve CA's in scoping & in milestone mtgs (especially TSP)
- ✓ Outline a schedule that works for USACE **and** addresses key milestones for other CAs
- ✓ Seek to explore joint fact finding or third party science that parties can agree to
- ✓ Set decision-making rules; discuss how team will check agreements made with high level authorities

# RESOURCES

- Collaboration and NEPA class (thru USIECR) [www.udall.gov/OurPrograms/Institute/Training.aspx](http://www.udall.gov/OurPrograms/Institute/Training.aspx)
- Public Involvement and Team Building in Planning PROSPECT 407 class  
[ulc.usace.army.mil/CourseListDetailNewFy.aspx?CtrlNbr=407](http://ulc.usace.army.mil/CourseListDetailNewFy.aspx?CtrlNbr=407)
- Conflict Transformation in Multi-Party Processes class  
[nctc.fws.gov/courses/descriptions/ALC3199-Collaboration-and-Conflict-Transformation-in-Multi-Party-Processes.pdf](http://nctc.fws.gov/courses/descriptions/ALC3199-Collaboration-and-Conflict-Transformation-in-Multi-Party-Processes.pdf)
- Team building resources - [cops.usace.army.mil/sites/\\_CPP/default.aspx](http://cops.usace.army.mil/sites/_CPP/default.aspx)
- Sample MOU's - [cops.usace.army.mil/sites/\\_CPP/default.aspx](http://cops.usace.army.mil/sites/_CPP/default.aspx)
- CPCX core team; Liaisons at each MSC; Public Involvement Specialists at Districts

## MSC Liaisons

- **Kate Bliss**, Pacific Ocean Division
- **Melanie Ellis**, Southwestern Division
- **Mike Saffran**, Great Lakes & Ohio River
- **Cindy Tejada**, South Pacific Division
- **Crorey Lawton**, Mississippi Valley Division
- **Roselle Henn Stern**, North Atlantic Division
- **David Bauman**, South Atlantic Division
- **Amy Echols**, Northwest Division

## Public Involvement Specialists

Kelly Janes, NWP; Jennifer Salak, NWO; Amy Snively, NWK; Scott Lawrence, NWS; Joel Flannery, SPN; Eileen Takata, SPL; Hunter Merritt, SPK; Ellen Lyons, POA; Vera Koskelo, POH; Lynn Greer, LRB; Mary Weidel, LRE; Brandon Brummett, LRL; Mary Lewis, LRN; Andrea Carson, LRP; Marco Ciarla, NAB; Kevin Bluhm, MVN; Angie Freyermuth, MVR; Rebecca Seal Soileau, MVP; Jeff Morris, SAS; Jerica Richardson, SAM

# FOR MORE INFORMATION

## CPCX Core Staff

Hal Cardwell	Program Direction, Collaborative Modeling
Seth Cohen	Facilitator, CoP Lead, Conflict Resolution, Tribal
Stacy Langsdale	Risk Communication, Collaborative Modeling
Susan Durden	Public Participation policy, Planning Facilitation
Andrea Carson (LRP)	Collaborative Process Design, Trainer, Facilitation, Conflict Resolution
Tyson Vaughan	Evaluation, Community Resilience
Lynn Greer (LRB)	PI Specialist program mgmt., facilitation

## Sites

**USACE Collaboration & Public Participation CX**  
[www.iwr.usace.army.mil/cpc](http://www.iwr.usace.army.mil/cpc)

**Shared Vision Planning**  
[www.SharedVisionPlanning.us](http://www.SharedVisionPlanning.us)

**Collaboration & Public Participation CoP**  
[https://cops.usace.army.mil/sites/\\_CPP/default.aspx](https://cops.usace.army.mil/sites/_CPP/default.aspx)

