

POST AUTHORIZATION CHANGE REPORTS (PACRS) – MYTHS, MYSTERIES, AND LEGENDS

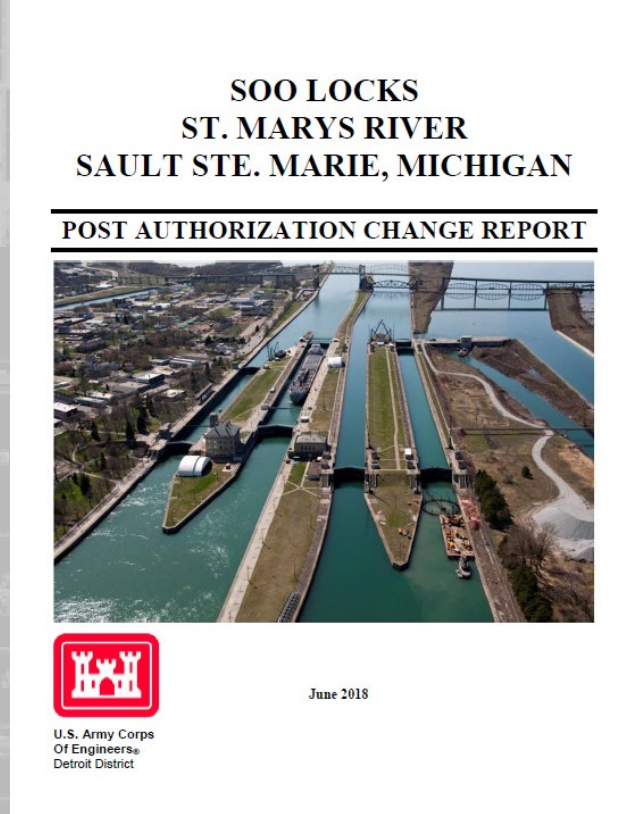
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Date: 20 May 2021

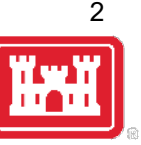
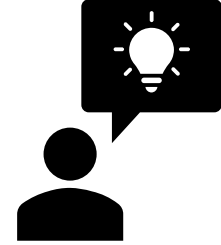


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TODAY'S DISCUSSION



- Define an authorized project.
- Describe why and when a Post Authorization Change Report (PACR) is needed.
- Discuss the types of PACRs, scoping, and approval authority.
- Dispel myths, mysteries, and legends that drive some of the most common misperceptions about PACRs.



WHAT ROLE DO YOU PLAY FOR PACRS?

District / PDT

PCX

MSC

Headquarters

Policy & Legal Review Team

Click on the Annotation option *N* on the left side of your screen and then use the Pencil Tool or checkmark to mark your response.



HOW EXPERIENCED ARE YOU WITH PACRS?

Never Heard of It

I Have Done a Few

**You're Not Telling Me
anything I Don't Know**

Click on the Annotation option *N* on the left side of your screen and then use the Pencil Tool or checkmark to mark your response.



REFERENCES & APPLICABLE LAWS



Helpful background:

- ER 1105-2-100, Planning Guidance Notebook (PGN) Appendix G: “Planning Reports & Programs”
- PB 2018, “Feasibility Study Milestones”
- PB 2018-01(S), “Feasibility Study Milestones Supplemental Guidance”
- Director of Civil Works Policy Memorandum CWPM 12-001, SUBJECT: Methodology for Updating Benefit-to-Cost Ratios (BCRs) for Budget Development



WHAT IS AN AUTHORIZED PROJECT?



“An authorized project means a project **specifically authorized by Congress for construction**, generally through language in an authorization or appropriation act, or a project authorized pursuant to Section 201, of the Flood Control Act of 1965.”

WRDA 2020 - SEC. 401. PROJECT AUTHORIZATIONS.

The following projects for water resources development and conservation and other purposes, as identified in the reports titled “Report to Congress on Future Water Resources Development” submitted to Congress pursuant to section 7001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d) or otherwise reviewed by Congress, are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports or decision documents designated in this section:

- ER 1105-2-100, Appendix G, Paragraph G-12.a.



TIP:

✓ Continuing Authorities Program (CAP) projects are NOT specifically authorized

(1) NAVIGATION.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. AK	Port of Nome Modifications	May 29, 2020	Federal: \$378,908,000 Non-Federal: \$126,325,000 Total: \$505,233,000
2. AK	St. George Harbor Improvement, St. George	August 13, 2020	Federal: \$147,874,000 Non-Federal: \$16,508,000 Total: \$164,382,000
3. AK	Umalaska (Dutch Harbor) Channels	February 7, 2020	Federal: \$26,967,000 Non-Federal: \$8,989,000 Total: \$35,956,000
4. CT	New Haven Harbor Navigation Improvement Project	May 7, 2020	Federal: \$55,250,000 Non-Federal: \$19,442,000 Total: \$74,692,000
5. NY, NJ	New York and New Jersey Harbor Anchorages	April 23, 2020	Federal: \$19,550,000 Non-Federal: \$6,520,000 Total: \$26,070,000

(2) FLOOD RISK MANAGEMENT.—

A. State	B. Name	C. Date of Report of Chief of Engineers	D. Estimated Costs
1. AZ	Little Colorado River at Winslow, Navajo County	December 14, 2018	Federal: \$54,260,000 Non-Federal: \$29,217,000 Total: \$83,477,000
2. CA	Westminster, East Garden Grove, California Flood Risk Management	July 9, 2020	Federal: \$324,905,000 Non-Federal: \$940,191,000 Total: \$1,265,096,000
3. CT, NY	Westchester County Streams, Byram River Basin, Fairfield County, Connecticut, and Westchester County, New York	May 7, 2020	Federal: \$15,199,000 Non-Federal: \$15,199,000 Total: \$30,397,000
4. KY	Louisville Metropolitan Flood Protection System Reconstruction, Jefferson and Bullitt Counties	October 27, 2020	Federal: \$122,170,000 Non-Federal: \$65,917,000 Total: \$188,087,000



WHAT ARE THE DIFFERENT TYPES OF PACRS?



- **Engineer Documentation Report (EDR)**
 - Documents design refinements
 - If reformulation is required, must do a Validation Report, Limited Re-evaluation Report, or General Re-evaluation Report
- **Economic Updates**
 - Level 1 and 2 for Budgetary purposes only and are not PACRs
 - Level 3 for Validation Report/Limited Re-evaluation Report
 - Level 4 for General Re-evaluation Report
- **Validation Report***
 - Formerly a type of Limited Re-evaluation Report (LRR)
 - No reformulation
 - Ends in a Director's Memo or Director's Report (not the same)
- **Limited Re-evaluation Report (LRR)**
 - Limited reformulation that does not require new authorization
 - Ends in a Director's Memo or Director's Report
- **General Re-evaluation Report (GRR)**
 - Requires significant reformulation
 - Requires new Congressional authorization
 - Ends in a Chief's Report

** Validation Report is often used to support a new authorization for a Section 902 "cost bust" if there are no other significant changes to the project that would require new authorization.*



HOW DO YOU SCOPE A PACR?



PACRs should be scoped based on what has changed since authorization

- **What has changed?**
 - Sponsor desire/preference?
 - Project purpose added or deleted?
 - Project footprint increase or decrease?
 - Project benefits increase or decrease?
 - Project costs increase or decrease?
 - Project justification becomes questionable?
- **What level of reformulation will be required?**
- **What approval authority is needed?**
- **Will the change require new NEPA or Agency Coordination?**



CHECK YOUR UNDERSTANDING



WHO WILL APPROVE THE PACR?

**1. District
Commander**

**2. Division
Commander**

3. Headquarters

4. Congress



WHO APPROVES A PACR?



- **Delegations to the Division Commander**

- Increase in project cost no greater than changes in price levels (allowable inflation) plus modifications by law.
- Increase or decrease in scope no greater than 20 percent of the scope authorized by Congress.
- “Insignificant” changes to location or design compared to project authorized by Congress.
- Does not add or delete a project purpose, except water quality.

- **Chief of Engineers**

- Modifications deemed within the Chief’s Discretionary Authority will be approved by the Director of Civil Works

- **Congressional Authorization**

- Section 902 “bust”
- Modifications exceeding the Chief’s Discretionary Authority



TIP:

- ✓ Coordinate early and often with Office of Counsel
- ✓ Engage the Vertical Team early including the Division and HQ Regional Integration Team



SECTION 902 OF WRDA 1986

U.S. CODE TITLE 33 CHAPTER 36 SUBCHAPTER V SECTION 2280



- Section 902 of WRDA 1986, as amended, applies to all specifically authorized projects
- The Law allows for the maximum cost to be
 - The total project cost stated in law
 - Plus 20%
 - Plus Allowable Inflation
 - Plus additional studies, modifications, and actions required by law
- If the Total Project Cost (fully funded to the midpoint of construction) exceeds the Sec 902 Limit, then the project has a 902 “cost bust” and must be rescopeed or obtain new Congressional authority.

**TIP:**

- ✓ Total Project Cost comes from Cost Estimating
- ✓ Certified spreadsheet is required for 902 calculation
- ✓ Rescoping to a smaller project may get the Total Project Cost under the 902 Limit, but that could trigger need for new authority as a significantly reformulated project.
- ✓ Use ER 1105-2-100 Exhibit G-11 Project Cost Increase Fact Sheet

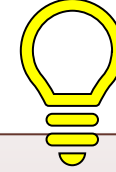


PACR REQUIREMENTS

ER 1105-2-100, APPENDIX G, SECTION G-16



1. Description of Authorized Project.
2. Authorization.
3. Funding Since Authorization.
4. Change in Scope of Authorized Project.
5. Change in Purpose of Authorized Project.
6. Change in Local Cooperation Requirements.
7. Change in Location of Project.
8. Design Changes.
9. Changes in Total Project First Cost.
10. Changes in Project Benefits.
11. Benefit-Cost Ratio.
12. Changes in Cost Allocation.
13. Changes in Cost Apportionment.
14. Environmental Changes in Recommended Changes.
15. Public Involvement.
16. History of Project.

**TIP:**

- ✓ The PACR MUST COVER each of these topics in detail
- ✓ Scope of PACR will determine level of detail for each category.
- ✓ Even if there is no change, document a rationale for why it was determined that there was no change



MYTHS, MYSTERIES, AND LEGENDS



- Mystery: A GRR is a feasibility report.
- Myth: We won't have a 902 bust until we spend up to the 902 limit.
- Myth: Once USACE starts construction of a project, it will complete construction of that project, regardless of expected cost increases.
- Mystery: A LRR is a feasibility report.
- Legend: Justifying cost increases for AER projects is difficult.
- Myth: A PACR takes years to compete.
- Legend: Chief's Reports, Director's Reports, and Director's Memos.
- Mystery: Assigning the review team for PACRs.
- Legends: Opportunities for authorized project modifications can be affected by the amount of time it takes OASA(CW) and OMB to consider the USACE recommendation.



SO... WHAT DOES THIS ALL MEAN?



- The role of Planners does not stop with authorization!
- Projects encounter changes after authorization and may require a PACR.
- Different PACR types culminate in different decisions and are not simply a different name.
- Approval authority varies based on what has changed, what needs to be analyzed, and whether new Congressional authority is required.

QUESTIONS?



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