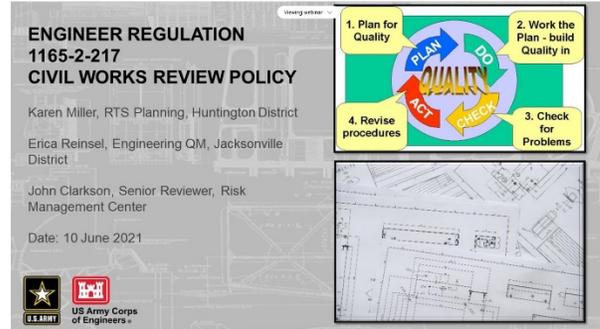


Engineer Regulation 1165-2-217: Civil Works Review Policy
10 & 17 June 2021
Q&A Session

This webinar addressed updates to the Civil Works Review Guidance Policy recently published in [Engineer Regulation \(ER\) 1165-2-217](#) dated 1 May 2021. ER 1165-2-217 provides guidance for Civil Works Review and supersedes the expired Engineer Circular (EC) 1165-2-217: Civil Works Review Policy.

This webinar highlighted the overall purpose of the policy, and significant changes from the EC to the ER, as well as served as a reminder of the major elements of responsibility for ensuring the production of quality products throughout the Civil Works program. The webinar was presented by the primary authors: Karen Miller (Planning Regional Technical Specialist, Huntington District); John Clarkson (Senior Reviewer, Risk Management Center); and Erica Reinsel (Quality Manager, Jacksonville District).



This summary of the Question / Answer session of the webinar is not a transcription; questions and responses have been edited and reordered for clarity.

Review Management Organization (RMO)

Who is responsible for confirming the RMO?

The project delivery team (PDT) RMO determination should be guided by the information contained in ER 1165-2-217, Chapter 2. It will be confirmed by the MSC at the onset of or early in the project timeline. For planning phase documents, the RMO should be determined in consultation with the MSC Chief of Planning and Policy, though this is not explicitly stated in the ER 1165-2-217. A Planning Center of Expertise (PCX) will be the RMO most of the time, as outlined in the ER, but where there are multiple business lines involved, the MSC will determine the lead PCX to serve as RMO (see Table 2.1). The RMO in other project phases will be confirmed by the relevant MSC functional element chief, the Regional Business Directorate, or the Programs Director.

Review Plan Requirements

The ER addresses review policy for non-federal activities associated with planning or implementation of a USACE authorized project or modification to an existing USACE project, but does not address Real Estate action reviews. Do Real Estate actions (e.g., out grants) require a Review Plan? If so, would a programmatic Review Plan be appropriate?

No – all Real Estate actions in support of Civil Works projects are covered in the Real Estate Army Regulations (Ars), ERs, and policy guidance. Please contact the Chief of Real Estate at the District level to determine the appropriate Real Estate transactions, and oversight needed for non-federal sponsor-provided Real Estate, based on the Civil Works project requirements.

Does ER 1165-2-217 require the District Quality Control (DQC) and Agency Technical Review (ATR) rosters within the Review Plan to be completely filled at the beginning of a study? If so, how should likely changes in DQC and ATR staff resourcing be addressed?

Per ER 1165-2-217, Paragraph 3.6.2.6, “A list of the primary reviewer disciplines along with a succinct description of the expertise needed in the reviews.” Since DQC occurs seamlessly and often in an over-the-shoulder fashion, the DQC team should be established early in the study process and named in the Review Plan.

In most cases, the ATR team will be established early in the project. An ATR team lead will be established during the planning phase, after the scope of the study is more clearly defined, but before the Alternatives Milestone. The full ATR team roster will then be completed around the time of the scheduled Tentatively Selected Plan (TSP) Milestone. Per Paragraph 3.6.2.6, “For ATR, an attachment providing a team roster listing each discipline should be provided and, if available, the team member’s name with a brief resume is encouraged to confirm reviewer’s qualifications. Paragraph 5.5 discusses qualifications for ATR reviewers and the final team roster will be documented in the ATR Report per Paragraph 5.10.”

If a Review Plan expires, can it be renewed or does a new Review Plan need to be created? Is there a process for the renewal?

Unless a policy waiver has been approved, a planning study should be finished within three years, which is before the Review Plan expires. However, if necessary (i.e., if a 3x3 policy exemption is approved), a Review Plan can be renewed with the assistance of the RMO or MSC. A new Review Plan does not need to be created but should be current and reflect the remaining reviews. Review Plans for post-feasibility phases of a project (e.g., preconstruction engineering and design [PED]) are typically developed and approved separately from the feasibility phase Review Plan. The post-feasibility phase or PED Review Plans are typically developed at the end of the three years for the planning study and will have a new three-year expiration period.

What is the renewal process for programmatic Review Plans?

The renewal process for Review Plans should be consistent with the original approval process. Per Paragraph 3.3.2 of the ER, regional programmatic Review Plans would be re-approved by the MSC. National programmatic Review Plans would be re-approved at HQUSACE by the Director of Civil Works.

Why are Review Plans required to be developed within 30 days of the Feasibility Cost Sharing Agreement (FCSA) signing rather than within a 90-day time frame to allow for this work to be done during the Alternatives Milestone development? Why is the receipt of funds the trigger for the Review Plan?

It is important to establish the scope of reviews early in the process to ensure quality is built in from the start. Per Paragraph 3.5.1.1 of the ER, for projects initiated in the planning phase, an initial Review Plan will be developed within the first 30 calendar days after executing a FCSA. If the study is funded by contributed funds or 100% federally funded, the initial Review Plan will be developed within the first 30 calendar days of receiving funds. As the scope of the study is developed, the draft Review Plan will be updated and endorsed by the RMO before the Alternatives Milestone meeting for a planning study. The Review Plan will then be sent to the MSC for approval within two weeks of the Alternatives Milestone meeting. The Review Plan will be updated throughout the study, as needed, and revised prior to the completion of the planning phase to detail the reviews in subsequent phases.

Should the Review Plans posted to public-facing District websites have personally identifiable information (PII) removed?

Per ER 1165-2-217, Paragraph 3.8.1, the decision document Review Plans posted to the internet should use position titles only. Names and contact information must be redacted before posting.

Are POCs listed for the applicable Planning Center of Expertise (PCX) in the Review Plans?

Yes, as the RMO, the applicable PCX is described in the Review Plan and a POC is listed as part of the Vertical Team in the roster section, usually in an appendix or attachment to the Review Plan. [A list of the PCXs is on the Planning Toolbox](#) and POCs for each PCX can be found on their respective websites. Each

PCX differs slightly in how they process Review Plans, so it is a good idea to contact them early in Review Plan development.

Safety Assurance Review (SAR)

Is there additional guidance on the SAR requirement as a critical decision point?

ER 1165-2-217, Chapter 7, focuses exclusively on SARs, including when SARs should be conducted. The previous life safety “mandatory trigger” for conducting a SAR (which was referred to as “Type II Independent External Peer Review” in the previous Civil Works Review Policy guidance) has been revised to trigger based on risk-informed decisions instead of statutory requirements. A SAR may not be considered required initially based on risk-informed decisions, but could be triggered later on as the study and project develop. A note to this effect can be included in the Review Plan.

Application of ER 1165-2-217 to USACE Decision Documents

Is an environmental impact statement (EIS) and/or environmental assessment (EA) considered a "decision document" under the ER – specifically in cases where an EIS is used to update operating projects or a non-feasibility study EA?

Yes, an EIS is a type of decision document as it results in a Record of Decision (ROD); likewise for an EA, the end result is a Finding of No Significant Impact (FONSI). ER 1165-2-217 defines a “decision document” as “any planning work product that provides analysis and recommendations for an Agency decision to obtain project authorization to commit funds for project implementation or project modification. A decision document is the basis for approval to send/receive funds as a result of entering into agreements with other agencies or organizations including those to obtain Congressional authorization. Feasibility reports and GRRs are other examples of decision documents.”

Paragraph 5.3 contains a list of questions to assist in the determination of whether another work product requires ATR (Paragraph 5.3, Applicability); this list should be consulted in determining the applicability of ATR for a stand-alone EIS or EA.

DQC and ATR Requirements

Is there a requirement to document DQC comments, as is required for ATR?

The documentation requirements for DQC are outlined in ER 1165-2-217, Paragraph 4.7.4. The requirements must be outlined in the District’s quality management system (QMS) process for DQC and the process must include traceability of the review, comments, PDT responses, etc.

Can you provide examples of regional QMS processes?

Qualtrax (<https://qualtrax.usace.army.mil/>) is the USACE quality management system (QMS) automated information system (AIS) that includes the current quality management documentation and may be a helpful place to start.

Are DQC comments required to use the same 4-part comment format as ATR comments?

Per ER 1165-2-217, Paragraph 4.7.4, “The District is encouraged to use DrChecks to document DQC throughout the review process.” This would include applying the 4-part structure to DQC comments. It is not required, but is highly effective and should be used as a best practice.

Does the new ER include a standard for entering the significance of concern of an ATR comment within the 4-part comment format?

Per ER 1165-2-217, Paragraph 5.8.3.3, significance of concern should be assigned to comments as “low, medium, high, or critical, accompanied by an explanation of the importance of the concern regarding its

potential impact, such as plan selection, recommended plan components, efficiency (cost), effectiveness (function/outputs), implementation risks and uncertainties, implementation responsibilities, safety, federal interest, or public acceptability.”

Does the ER require signatures of all DQC reviewers on individual product certification sheets, including for drawings?

ER 1165-2-217, Paragraph 4.7.1.5 requires a “red dot” check on critical graphic/plan elements (e.g., dimension/elevation, note, or reference). In addition, [ER 1110-2-1150: Engineering and Design for Civil Works Projects](#) would be an appropriate place to consider adding a potential requirement for author signatures. ER 1110-2-1150 is currently being reviewed and updated.

Is there a recommended way to conduct a red dot check on electronic documents?

Per ER 1165-2-217, Paragraphs 4.7.1.3, 4.7.1.4, and 4.7.1.5, the red dot check can be completed electronically in a PDF and signed electronically using digital certificates and signatures. Typed initials or signatures are not allowed.

How do ATR members involved in decisions during the project remain independent reviewers when conducting ATR on the decision document?

Independent review is a key element to the process outlined in ER 1165-2-217. ATR members who are involved in project decisions may provide feedback on key decisions to the PDT, but they should not be making the decisions.

What responsibility does the ATR team have for verifying and ensuring the changes requested during the review stage are made in revised report versions, as a lack of time and money often causes the review to be closed before a revised report can be reviewed and changes verified?

The PDT should provide a revised document to the ATR team for review to support comment backchecks. If a revised document is not provided for review, the ATR team should not close unresolved comments without adding verbiage to DrChecks that states that the requested change has not been verified. It is becoming increasingly common that comments made during the draft report review are not closed in DrChecks until the final report stage, when the PDT provides revised documentation and all ATR comments and requested changes can be backchecked and verified.

If ATR comments are not closed at the draft phase, how is the required ATR certification obtained to release the draft report?

ATR certification is not required before releasing the draft feasibility report. The draft report undergoes concurrent public, ATR, and policy review. ATR certification of the draft report would be provided at completion of the ATR generally before the Agency Decision Milestone.

When should the ATR certification sheet be signed in cases where issues have been elevated and recorded, but not yet resolved? What controls are in place to make sure issues are resolved after elevation?

ER 1165-2-217 contains guidance on how issues are elevated to the MSC or Headquarters. If issues remain unresolved in a final report, those issues should be documented clearly in the ATR summary report with an indication of which issues have been elevated to the MSC or Headquarters for resolution. Per Paragraph 5.9, “The ATR Team will identify significant issues, unresolved comments, or comments that they consider are unsatisfactorily resolved and will note these concerns in the ATR Report and the Statement of Technical Review and ATR Certification documentation.” and Paragraph 5.11.2, “By signing the ATR Certification, the District leadership (i.e., Chief, Engineering and Planning Divisions) certifies policy compliance of the work product and that the ATR activities were sufficient and documented.” Any elevated issues from the signed ATR certification should be tracked by the vertical team for

resolution consistent with other project issues. Coordinating with the RMO will ensure the issues are elevated and resolved.

Why are all DQC team members required to sign the DQC certification vs. only requiring relevant lead signatures (e.g., DQC lead, senior formulator), which could help avoid delays?

All DQC Review Team members are required to sign the DQC certification to confirm the activities were sufficient and documented on completed items and ensure accountability and traceability at the individual level. Per ER 1165-2-217, Paragraph 4.7.5, “Based on risk-informed decisions, the supervisor may grant exceptions from the DQC certification requirement for low-risk work products or for design or computations that do not involve life safety, operational adequacy, or large economic consequences.” In addition, while ER 1165-2-217 provides some flexibility (e.g., by using multiple certifications with fewer required signatures to break up larger products), the entire DQC Review Team, including the DQC Review Lead, is required to sign the DQC Certification.

Should the DQC lead be included in planning milestone meetings?

Although ER 1165-2-217 does not require DQC leads to be included in planning milestone meetings, some Districts may require it or have documented it as a best practice. Including the DQC lead in milestone meetings allows for growth and learning opportunities by allowing the DQC lead to hear ATR, policy, and public review comments and concerns that arise after DQC.

What are the risks of conducting public review concurrently with ATR and policy and legal compliance review (P&LCR) of the draft feasibility report and draft National Environmental Policy Act (NEPA) documentation (i.e., the draft environmental assessment or environmental impact statement)?

With the SMART Planning process introduced in 2012, the goal of concurrent review is to reduce the amount of review time required in order to help meet the three-year timeline requirement for feasibility studies. While there are risks associated with releasing the plan to the public before any critical issues may be raised by the ATR or P&LCR, the concurrent reviews enable the project to abide time constraints and these are ultimately risks the agency is willing to take. Because of the vertical team alignment prior to release of the report on the identification of the TSP, and acceptance of the formulation, evaluation, and comparison analyses that led to that selection, the risk of concurrent public review is slim.

Brokered Studies

What does "brokered" mean in the context of ER 1165-2-217?

ER 1165-2-217, Paragraph 9.1 details the guidance for “brokered” work. In general, per Paragraph 9.1.1, “brokered” work refers to when a District or MSC arranges a formal agreement with other USACE Districts, laboratories, or CXs (e.g., USACE entity) to provide services, deliverables, or complete work products for the “home” District/MS.

Will ER 1165-2-217 apply to current active brokered studies and brokered studies approaching completion?

ER 1165-2-217 applies to all Civil Works work products. Per Paragraph 1.7.1.4, “Review approaches will be scalable and customized for each effort and commensurate with the level of risk, complexity, and importance of the outcome or decision.” This guidance should be considered when applying ER 1165-2-217 to current active brokered studies and brokered studies approaching completion.

Is the home District responsible for conducting DQC on work that has been brokered?

Per ER 1165-2-217, Paragraph 9.1, the home District would fulfill a quality assurance role for a fully brokered work product to ensure the brokered District performed DQC appropriately. Additionally, the specific roles and responsibilities, including quality oversight, of the Districts, MSCs, and USACE entities

involved in brokered work must be outlined in the formal brokering agreement before the work is accepted.

Miscellaneous

Who is responsible for funding quality assurance audits?

Quality assurance audits should be funded by the organization (i.e., HQ, MSC, RMO, or District) conducting the audit. Per ER 1165-2-217, Paragraph 8.1.2, these audits may be desk audits.

Using risk-informed planning on quality metrics makes it more likely that project scopes will be revised as more information becomes available; will projects be penalized for scope revisions?

Projects should not be penalized for scope revisions and refinements. Project scope revisions should be handled in accordance with [ER 5-1-11: USACE Business Process](#) and the USACE Project Delivery Business Process (PDBP) Manual.

Does use of "significant resources" mean that all EISs, which have significant environmental impacts, need to undergo independent external peer review (IEPR)?

An EIS is not a specific mandatory trigger for an IEPR and there can be many reasons a team is using that level of document. ER 1165-2-217, Paragraph 6.5 states: "When none of the three mandatory triggers for IEPR are met, MSC Commanders have the discretion to conduct IEPR based on a risk-informed assessment of the expected contribution of IEPR to the project."