

CONTINUING AUTHORITIES PROGRAM

Sec 1107 (b)-(j) of WRDA 2024 Implementation Guidance

Amy Babey
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BACKGROUND



- Nine CAP Authorities – each with a Federal per project limit and annual program limit

- WRDA 2024 – Signed on 4 Jan 2025
 - Sec 1107 Continuing Authority Programs
 - (a) Pilot Program
 - (b) Sec 14
 - (c) Sec 103
 - (d) Sec 107
 - (e) Sec 206
 - (f) Sec 208
 - (g) Sec 1135
 - (h) Sec 111
 - (i) Sec 204
 - (j) Sec 105
 - (k) Sec 165(a)

- Implementation Guidance for (b)-(j) signed 23 Feb 2026 by SEC Telle



SEC 1107 (B) – (J) IG



- IG covers five key topics:
 - Federal per-project limits
 - Drought resilience
 - Anadromous fish
 - Ice jams
 - General implementation



FEDERAL PER-PROJECT LIMITS OVERVIEW



- Developed through a detailed review of ALL previous IG and law related to Federal per-project limits
- All previous IG related to increasing the Federal per project limits for CAP (and there are quite a few) are superseded by this 2026 IG
- This IG will be the only source of guidance as to whether an active or unstarted project can apply the new Federal project limits



FEDERAL PER-PROJECT LIMITS

Program Authority	Description	D&I Cost Share % Fed/non-Fed	Federal Funding Limits	
			Project	Annual Program
Section 14	Flood Control Act of 1946 (PL 79-526), as amended for emergency streambank & shoreline protection for public facilities & services.	65/35	\$15,000,000	\$50,000,000
Section 103	River & Harbor Act of 1962 (PL 87-874), as amended, amends PL 79-727, an act approved August 13, 1946 which authorized Federal participation in the cost of protecting the shores of publicly owned property from hurricane & storm damage.	65/35	15,000,000	62,500,000
Section 107	River & Harbor Act of 1960 (PL 90-483), as amended for navigation.	Varies Based on Depth	15,000,000	63,000,000
Section 111	River & Harbor Act of 1968 (PL 90-483), as amended, for mitigation of shoreline erosion damage caused by Federal navigation projects.	same as original project	15,000,000	N/A
Section 204	Beneficial Uses of Dredged Material, Water Resources Development Act of 1992 (PL 102-580), as amended.	65/35	15,000,000	63,000,000
Section 205	Flood Control Act of 1948 (PL 80-858), as amended, for flood control.	65/35	15,000,000	90,000,000
Section 206	Aquatic Ecosystem Restoration, Water Resources Development Act of 1996 (PL 104-303), as amended.	65/35	15,000,000	75,000,000
Section 208	Flood Control Act of 1954 (PL 83-780), as amended, originally Section 2, Flood Control Act of August 28, 1937 (PL 75-406) for snagging and clearing for flood control.	65/35	1,000,000	15,000,000
Section 1135	Project Modifications for Improvement of the Environment, Water Resource Development Act of 1986 (PL 99-662), as amended.	75/25	15,000,000	62,000,000

Text in red font were changed in WRDA 2024



FEDERAL PER-PROJECT LIMITS APPLICATION



- Two categories tied to the date of the award of the initial construction contract

(1) Initial construction contract awarded on or after 4 Jan 2025

- Increased per projects limits can be applied
 - No PPA – use new model PPA with increased limits as template and follow standard approval process
 - Executed PPA - amend PPA to reflect the increased limits
 - Approval level of the PPA amendment is the MSC Commander
 - District Commander can sign after MSC Commander approval



FEDERAL PER-PROJECT LIMITS APPLICATION

(2) Initial construction contract awarded before 4 Jan 2025

- The Deputy , Civil Works and Emergency Operations (Deputy) will only consider an increase to the federal per project limit for:
 - Projects approved for deficiency corrections OR
 - Projects where construction cost increases are for in-scope work AND were caused by funding delays, acquisition complications, or resolution of contract disputes
- The Deputy will not consider requests to amend agreements where:
 - the project is fiscally completed OR
 - the Federal portion of the project costs were known to be above the federal per project limit and the non-Federal sponsor agreed to pay those additional costs at the time the agreement was executed (i.e. policy exception – delegated or not)



FEDERAL PER-PROJECT LIMITS APPLICATION



(2) Initial construction contract awarded before 4 Jan 2025

- A request for the Deputy approval of the PPA amendment will be treated similar to a policy exception request.
- District/MSC will prepare and submit a short memo describing history of project, cost and scope in the approved DPR, cost increases and reason, and IG criteria under which the increase should be considered
- If the amendment is approved by the Deputy, approval level of the PPA amendment is the MSC Commander and following MSC approval, the District Commander can sign



DROUGHT RESILIENCE



- IG language for CAP Sec 206 and 1135
- Recommended plans must still adhere to current Corps Planning guidance
- Sec 206
 - Scope can include drought resilience through restoration of wetlands and removal of invasive species
- Sec 1135
 - Scope can include measures that increase drought resilience, water conservation, or water availability, including native species plantings and “removal of sediment captured behind a dam for the purpose of restoring or increasing the authorized storage capacity of the project concerned”



DROUGHT RESILIENCE

- Sediment Removal
 - Must evaluate/determine presence of HTRW in ICE process and feasibility phase
 - Evaluation and remediation must follow 1165-2-132
 - HTRW investigations will be cost-shared during feasibility phase
 - If HTRW found - IPR with HQS Engineering, Real Estate, Planning, Counsel, and CAP PgM
 - Must be documented in DPR and in future OMRRR documentation
 - HTRW removal/remediation is 100% non-Fed responsibility



ANADROMOUS FISH

- Applies to CAP Sec 206 DI only - typical cost share for DI is 65/35
 - Feasibility cost share remains at 50/50
- Authorizes non-Fed cost share of 15% for:
 - Cost of construction including LERRDS for projects for anadromous fish habitat and passage
 - Recommended plans must incorporate measures to improve habitat or passage for anadromous fish
 - Recommended plans must meet the requirements in current Corps guidance and must be formulated to optimize benefits for the anadromous fish species benefited by the project
 - Draft DPR must contain documentation and justification for applying the revised cost share percentage – must be reviewed and approved by vertical team



ANADROMOUS FISH

- The revised cost share becomes effective:
 - No PPA - effective date is the date a model PPA with the 85/15 cost share language (option) is executed
 - PPA Executed - effective prospectively from the date an amendment to the PPA is executed.
 - Any funds expended after the original PPA execution but before the PPA amendment will be cost shared according to the original agreement at 65/35
 - Only expenditures after PPA execution will be cost shared 85/15



ICE JAMS

- CAP Sec 208 scope now includes measures to prevent/mitigate damages associated with ice jams
- Follow EM 1110-2-1612 for guidance of ice jams



GENERAL IMPLEMENTATION

- Separate IG will be issued for:
 - Sec 1107 (a) – Pilot Program for Alternate Project Delivery for Continuing Authority Program Projects
 - New program
 - Sec 1107 (k) – Community Revitalization Program
 - Amends Sec 165(a) of WRDA 2020



KEY TAKEAWAYS

- Use this IG only for Federal per project limit discussions/questions
- Provide justification/obtain Deputy approval for PPL increases if initial construction contract has been awarded
- Pay attention to HTRW issues for projects with sediment removal
- Use critical thinking when deciding initial eligibility dealing with drought resilience
- Support, defend, and document optimized benefits to anadromous fish
- Provide cost allocation table in DPR or before PPA amendment to outline 85/15 cost share



QUESTIONS

