

# Lesson 3

CIVIL WORKS PROGRAM  
DEVELOPMENT AND EXECUTION COURSE  
LESSON NUMBER 3

2. THE CIVIL WORKS PROGRAM AND THE FEDERAL ORGANIZATION,  
AUTHORIZATIONS, AND APPROPRIATIONS

TOPIC: b. Authorization, Classification and Deauthorization  
of Studies and Projects  
(1) Studies  
(2) Preconstruction Engineering and Design  
(3) New Projects  
(4) Other Programs and Program Limits  
(5) Cost Sharing  
(6) Classification  
(7) Deauthorization

TIME ALLOTTED: 1¼ hour, including time for questions and answers

HANDOUTS: H 3-1 Tabulation of Continuing Authority Programs for  
Projects Not Specifically Authorized  
H 3-2 Summary of Project Cost Sharing  
H 3-3 Definitions of Study and Project Classifications.

REFERENCES: ER 1105-2-100, Planning Guidance Notebook, 22 Apr 00.  
EP 1165-2-1, Water Resources Policies and Authorities, 30 Jul 99  
Water Resources Development Act of 1986 (WRDA 86),  
Public Law 99-662, 17 Nov 86, 100 Stat. 4082-4273.  
Water Resources Development Act of 1988 (WRDA 88),  
Public Law 100-676, 17 Nov 88, 102 Stat. 4012-4046.  
Water Resources Development Act of 1990 (WRDA 90),  
Public Law 101-640, 28 Nov 90, 104 Stat. 4604-4653.  
Water Resources Development Act of 1992 (WRDA 92)  
Public Law 102-580, 31 Oct 92, 106 Stat. 4797-4871.  
Water Resources Development Act of 1996 (WRDA 96)  
Public Law 104-303, 12 Oct 96, 110 Stat. 3658-3972.  
Water Resources Development Act of 1999 (WRDA 99)  
Public Law 106-53, 17 Aug 99, 113 Stat. 269-397  
Water Resources Development Act of 2000 (WRDA 00)  
Public Law 106-541, 11 Dec 00, 114 Stat. 2572  
Water Resources Development Act of 2007 (WRDA 07)  
Public Law 110-114, 9 Nov 07, 121 Stat. 1041-1292



## DETAILED OUTLINE

### A. INTRODUCTION

1. Objective: To explain that all work undertaken by the Corps requires authorization, as well as appropriations. To discuss the different types of authorizations for studies, new projects, and programs, and the administrative classification of authorized, but uncompleted studies and projects. To discuss the laws and policies which apply to the deauthorization of studies and projects.
2. Define authorization versus appropriation.
3. Will cover authorizations for conducting studies, preconstruction engineering and design, new projects, and other programs, and program limits.
4. Outline the cost sharing formulas for various types of projects.
5. Other items to be covered.
  - a. Classification system.
  - b. Deauthorization of studies.
  - c. Deauthorization of projects.

### B. SOURCE OF AUTHORITIES

1. All from Congress.
2. May have been delegated.

### C. TYPES OF AUTHORITIES

1. Specific or General by Act.
  - a. Specific: Study, Planning and Engineering only, or Project.
  - b. General: Project function (e.g., M&I water supply) or Program (e.g., small projects).
2. May be Delegated to Committee (Resolution for surveys; \$15 million Section 201 Projects).
3. May be Delegated to Secretary of the Army or Chief of Engineers (Continuing Authorities, e.g., small projects, 1909 Rivers and Harbors Act).
4. Operational (Operation and Maintenance) (Inherent).

### D. TYPES OF STUDY AUTHORITIES

1. Act - All studies find their authority in Acts of Congress, either specifically or through general authorities and delegation.
2. Resolution by Public Works Committee.
  - a. For review of previous report on Navigation or Flood Control.

b. Beach erosion control or hurricane protection per Section 110, Rivers and Harbors Act of 1962.

c. Continuing Authority of ASA(CW) or Chief of Engineers.

-- "Small projects" under continuing authorities.

-- Review existing projects under Section 216, P.L. 91-611, 31 December 1970.

d. Operational (Study O&M or related problems for an existing project).

E. PRECONSTRUCTION ENGINEERING AND DESIGN (PED) AUTHORITIES

1. Authority based on feasibility study.

a. Projects are eligible for initiation of PED after Division Commander issues notice on the feasibility report.

b. Provides for continuity on projects that are in accord with current policies.

2. Section 910 of WRDA 1986.

a. Additional authority to allow PED to continue after report is transmitted to Congress if Chief of Engineers notifies Public Works Committees that:

-- The project is without substantial controversy.

-- Further engineering, economic, and environmental investigations are justified.

3. Projects Authorized for Planning, Engineering and Design only.

a. WRDA of 1986 authorized a number of projects for Planning, Engineering and Design (Preconstruction authorization).

b. Some projects were subjects of Corps studies, some not.

c. 50% local financing of Planning, Engineering and Design required, unless non-Federal interests contributed 50% of the feasibility study cost.

4. Project construction authority.

a. Historically, this was the only authority for preconstruction planning.

b. Became a small part of Civil Works program until WRDA 1986 authorized new projects.

F. TYPES OF AUTHORITIES FOR NEW PROJECTS

1. Specific or General by Act.

2. Delegated to Committees (Resolutions for \$15 million projects under Section 201, 1965 Flood Control Act).

3. Delegated to Assistant Secretary of the Army or the Chief of Engineers (Continuing Authorities) further delegated to Division Commander by Chief. Approval by Division Commander, based on required study and report, constitutes authorization.

#### G. POST-AUTHORIZATION CHANGES

1. For Congressionally authorized projects, Congress authorizes general scale and functions of projects, as well as local cooperation.
2. Chief of Engineers given discretionary authority for modification of plan.
3. Necessary reevaluation studies may be undertaken as first activity of preconstruction planning on a project that has been dormant.
4. Extent of resulting modification will dictate level of Post Authorization Change (PAC) approval.
5. Chapter 2, ER 1105-2-100, describes PAC approval authority.
  - a. Division Commander - relatively minor changes.
  - b. Chief of Engineers - case by case determination.
  - c. OASA(CW) and OMB informed of PAC's requiring HQUSACE approval.
  - d. If authorization by Congress required, report coordinated with OASA(CW) and OMB in same manner as pre-authorization reports.
6. WRDA 1986, Section 902, as amended, Maximum Cost of Projects.
  - a. Cost set forth in Act is maximum cost except may be increased for modifications with no "material" changes in scope or function (not more than 20 percent of total cost. Costs also shall be automatically increased for:
    - Changes in construction costs applied to unconstructed features (including real property acquisitions, preconstruction studies, planning, engineering, and design) from the date of enactment of WRDA 1986, or any later law (unless otherwise specified), as indicated by engineering and other appropriate cost indexes; and...
    - Additional studies, modifications, and action (including mitigation and other environmental actions) authorized by WRDA 1986, or any later law, or required by changes in federal law.

#### H. PROJECTS UNDER CONTINUING AUTHORITIES (SMALL PROJECTS)

1. Project limits - Projects that do not require specific authority. See appendix H 3-1.
2. All new CAP projects, regardless of type (Section), will follow a two-phase process. First phase, Feasibility will be Federally funded up to \$100,000. If over, FCSA must be signed and cost-shared 50/50 (up to non-Federal share may be in-kind contributions). Design and Implementation Phase will be cost-shared in accordance with type of project. In-kind contributions may not exceed non-Federal cash requirement. Up to \$50,000 may be used prior to PCA execution for initial design and PCA negotiation. See Table F-1 of Appendix F, ER 1105-2-100 for Applicability.

#### I. HOW STUDY AUTHORIZATIONS ARE OBTAINED OR IMPLEMENTED

1. Local interests approach Corps or Member of Congress on problem.
  - a. Corps advice; may have authority.
  - b. Member may approach Public Works Committee or may sponsor a bill.
  - c. Public Works Committee may seek Corps advice prior to acting.
  - d. Public Works Committee may include in an Act, or by Resolution.
  - e. Authorized study assigned to Division by HQUSACE. Division may reassign to District.

J. OTHER PROGRAMS AND AUTHORIZATION LIMITATIONS

1. Annual appropriation or allocation limits (some Continuing Authorities sections are allocation limits, others are appropriation limits) on certain national programs such as:

- a. Continuing authorities program for projects not specifically authorized.
  - b. Flood Plain Management Services (\$15,000,000).
  - c. Planning assistance to States, "Sec. 22" program (\$10,000,000) (\$2,000,000 per State).
  - d. Aquatic plant control (\$15,000,000).
2. Program total appropriation limit, such as:
- a. Streambank and Shoreline Erosion Control Evaluation and Demonstration.
3. Special (for absolute limit on a special project or activity).

K. NON-FEDERAL COST SHARING.

1. Projects cost shared in accordance with authorization and project purpose. - See Appendix H 3-2
2. Feasibility studies: reconnaissance studies and detailed feasibility studies (Sec. 905(b) and Sec. 105(a)): No cost sharing for reconnaissance studies; 50% for feasibility studies.
3. Planning and engineering authorized by the Act (Sec. 105(b)): 50%.
4. Design (Sec. 105(c)): cost shared as construction in accordance with project purposes. Financed in the PED phase at 75% Federal and 25% non-Federal.

L. CLASSIFICATION SYSTEM

1. Applicable to all authorized studies and projects.
2. Three classifications for projects; two for studies.
  - a. ACTIVE - good viable activity with local support (studies and projects).
  - b. DEFERRED - reasonable doubt of successful outcome (projects only).

c. INACTIVE - little or no chance of successful outcome and/or no local support (studies and projects).

d. "Active" studies and projects.

-- Update cost estimates annually.

-- Include on funding capability list.

-- Update P2 records at least annually.

3. Reclassification procedures.

a. Review of inventory by District.

b. Report recommendations to Division, or through Division to HQUSACE, as appropriate.

c. Approval level.

-- Studies: Division.

-- Projects: Division for reclassification from active to deferred or inactive.

-- HQUSACE for reclassification to active.

4. Required documentation.

a. Studies - memorandum with brief reason for recommendation.

b. Projects.

-- From active: memorandum.

-- Between deferred and inactive: memorandum.

-- To active: Restudy report may be required.

Memorandum when local support or financial capability of local sponsor is only issue.

5. Funding.

a. No specific source of funds for memorandums.

b. Restudy of Deferred Projects (General Investigations)

M. DEAUTHORIZATION OF STUDIES

1. Section 710 of WRDA 86.

2. HQUSACE proponent is Planning Division.

3. Annual report to Congress of authorized but incomplete studies for which no funds have been appropriated during last five fiscal years.

4. Deauthorization occurs 90 days from date of report unless appropriations are received.

N. DEAUTHORIZATION OF PROJECTS

1. Section 1001 of WRDA 86, as amended. (Last amended WRDA 07).



2. HQUSACE proponent is Programs Integration Division.
3. Scope.
  - a. Fully authorized, unconstructed projects and separable elements of projects.
  - b. Projects authorized for planning and engineering only.
  - c. Sec. 1001 does not apply to:
    - Continuing authorities (small projects) unless work is specifically authorized as such by Congress
    - Projects authorized subject to a favorable report when a favorable report has not occurred
    - Work performed within inherent authority (e.g., major rehabilitation, operation and maintenance, dam safety assurance, deficiency correction, periodic beach nourishment) unless specifically authorized by Congress.
    - Completed projects or separable elements
4. Section 1001(a) was rescinded by WRDA 96. All fully authorized projects and separable elements now fall under section 1001(b), as amended by WRDA 96.
5. Section 1001(b) - Five Year Rule.
  - a. Annual report to Congress of projects or separable elements with no obligations during prior five fiscal years.
  - b. Deauthorization occurs the last date of the fiscal year following the fiscal year in which the list to Congress is transmitted (if no funds obligated during this period)
6. Section 1001(c) of WRDA 86 requires publication in Federal Register of projects deauthorized under section 1001.

O. NOTIFICATION REQUIREMENTS

1. Section 119(a) of WRDA 90, as amended.
  - a. U.S. Senators and Members of Congress must be notified of projects or separable elements in their state/district which are eligible for deauthorization under Section 1001(b).
  - b. Notifications must be made when the list of eligible projects is reported to Congress.
  - c. Notifications delegated to district commanders.
  - d. By policy, notifications must be in writing.
2. It is HQUSACE policy that district commanders keep Congressional delegations and local interests informed of the deauthorization status of high-interest studies and projects. District commanders will decide the best method for doing this (i.e., formal letters, meetings, telephone calls by staff).

PROGRAMS FOR PROJECTS  
NOT SPECIFICALLY AUTHORIZED

<u>PROGRAM</u>	PER PROJECT (\$000)	FEDERAL LIMITS ANNUAL PROGRAM (\$000)	Non-Federal Share %
SECTION 205 FLOOD CONTROL	7,000	55,000	35
SECTION 208 SNAGGING AND CLEARING FOR FLOOD CONTROL	500	7,500	35
SECTION 14 EMERGENCY STREAMBANK AND SHORELINE PROTECTION (PUBLIC WORKS AND NON-PROFIT PUBLIC SERVICES)	1,500	15,000	35
SECTION 107 NAVIGATION	4,000	35,000	10/25/50
SECTION 3 SNAGGING AND CLEARING FOR NAVIGATION (O&M)	NONE	1,000	
SECTION 103 BEACH EROSION CONTROL	3,000	30,000	35
SECTION 111 MITIGATION OF SHORE DAMAGES ATTRIBUTABLE TO NAVIGATION PROJECTS	5,000	NONE	as auth.
SECTION 202 DRIFT AND DEBRIS REMOVAL (O&M)	400	4,000	
SECTION 1135 PROJECT MODIFICATIONS FOR IMPROVEMENT OF THE ENVIRONMENT	5,000	40,000	35
SECTION 204 BENEFICIAL USES OF DREDGED MATERIAL	NONE	15,000	25
SECTION 206 AQUATIC ECOSYSTEM RESTORATION	5,000	50,000	35

SUMMARY OF WATER PROJECT COST SHARING  
NON-FEDERAL RESPONSIBILITIES

Non-Federal Interests Are Responsible For:

1. Commercial Harbors (Section 101).

**NOTE: Section 201 of WRDA 96  
designates dredged material disposal  
areas as general navigation features  
for construction contract awards  
after WRDA 96 enactment date.**

a. Construction.

- (1) 10 % of the cost of general navigation features (GNF) for depths not in excess of 20 feet, paid during construction (PDC).
- (2) 25% of the cost of GNF for increment greater than 20 feet but not in excess of 45 feet, PDC.
- (3) 50% of cost of GNF for increment over 45 feet, PDC.
- (4) For projects consisting of GNF that do not modify project depths, a non-Federal contribution required of 10%, 25%, or 50% of the cost of GNF, based upon the depth of existing project. Contributions of paragraphs 1.a.(5), (6), and (7) also apply to such projects.
- (5) An additional 10% of the cost of GNF repaid over a period not to exceed 30 years. Credit is allowed for the value of lands, easements, rights-of-way, relocations and ~~dredged material disposal areas~~ (LERRD) against this 10%.
- (6) LERRD (LERR)
- (7) Perform or assure the performance of all relocations of utilities necessary to carry out the project. (An exception is made for deep-draft harbors where one-half of the cost of each such relocation shall be borne by the owner of the facility being relocated and one-half of the cost of each such relocation shall be borne by the non-Federal interest)

b. Bridge Modifications.

- (1) Costs not assigned the bridge owner (using Truman-Hobbs principles), are project costs considered to be part of the GNF.

c. Operation and Maintenance.

- (1) For deep draft harbors, 50% of the excess of the cost over the cost that would be incurred if the project had a depth of 45 feet.
- (2) LERRD needed for operation and maintenance.
- (3) The 0.125% tax on commercial cargo is appropriated to the Harbor Maintenance Trust Fund. Appropriations from this fund provide up to 100% of systemwide O&M costs

d. Prevention or Mitigation of Erosion or Shoaling Attributed to Federal Navigation.

- (1) Construction shared in samme proportion as the cost sharing provisions applicable to the project causing the shore damage.
- (2) OMRR.

2. Inland Waterways (Section 102).

a. Construction.

- (1) 50% of the costs through fuel taxes paid into the Inland Waterways Trust Fund(IWWTF) when specifically authorized. Projects in Title III, Sections 1103(j) and 844, and in PL 99-88 have been authorized to use trust funds. Cost sharing for projects not authorized to use funds from the IWWTF will be in accordance with the provisions of the authorizing legislation.

b. Operation and Maintenance.

- (1) LERRD, if required for projects not funded from IWWTF.

3. Flood Control (Section 103). **NOTE: Section 202(a) of WRDA 96 establishes a 35% minimum share of costs for project authorizations after WRDA 96.**

a. Construction (Structural).

- (1) Cash payment of 5% of the costs assigned to flood control (FCC), PDC.
- (2) LERRD, except alterations of railroad bridges and approaches in connection with, which are FCC.
- (3) Added cash contribution needed to make total non-Federal share equal to 25% of FCC, PDC.
- (4) Contributions in excess of 30% of FCC (5% cash plus 25% LERRD) may be reimbursed over a period not to exceed 15 years.
- (5) Maximum contribution is 50% of FCC (5% cash plus 45% LERRD).
- (6) Cost sharing subject to ability to pay under 103(m).

b. Construction (Non-Structural).

- (1) LERRD, limited to 25% of FCC.
- (2) Added contribution to make total equal to 25% of FCC applies when LERRD is less than 25% of FCC), reimbursed over period not to exceed 15 years.
- (3) Cost sharing subject to ability to pay under 103(m).

c. Operation, Maintenance, Replacement, & Rehabilitation (OMRR)

- (1) 100%.

4. Hydroelectric Power (Section 103).

a. Construction.

- (1) 100%, of the joint and separable costs.

b. OMRR.

- (1) 100%.

5. Municipal and Industrial Water Supply (Section 103).

a. Construction.

- (1) 100%, of the joint and separable costs, PDC

b. OMRR.

- (1) 100%.

6. Agricultural Water Supply (Section 103).

a. Construction. (New Projects).

- (1) 35% of the joint and separable costs assigned to agricultural water supply, PDC.
- (2) Cost sharing subject to ability to pay Section 103(m). See Section 202(b) WRDA 96

b. OMRR. (New Projects).

- (1) 100%

c. Interim Use of M&I Water Supply Storage for Agriculture.

- (1) To be determined.

7. Recreation (Section 103).
  - a. Construction.
    - (1) 50% of the separable costs, PDC.
    - (2) 50% of joint and separable costs allocated to recreational navigation at harbor and inland waterway projects, PDC.\*\*
  - b. OMRR.
    - (1) 100%.
8. Hurricane and Storm Damage Reduction (Section 103).
  - a. Construction.
    - (1) 35%, of the joint and separable costs, PDC.
  - b. OMRR.
    - (1) 100%
9. Aquatic Plant Control (Section 103).
  - a. 50% of control operations, PDC
10. Beach Erosion Control (Section 103).
  - a. Construction.
    - (1) Shared in accordance with appropriate project purpose, Except 100% for costs assigned to benefits for privately-owned shores limited to private use, and to prevention of private land loss.
  - b. OMRR.
    - (1) 100%.
11. Water Quality Enhancement (Section 103).
  - a. Shared in accordance with appropriate project purpose.
12. Fish and Wildlife Mitigation (Section 906).
  - a. Construction and OMRR costs are allocated among project purposes and shared or reimbursed to the same extent as such other project costs are shared or reimbursed.

13. Fish and Wildlife Enhancement (Section 906).

a. Construction

(1) None, if the action:

- Provides benefits to species identified by the

National Marine Fisheries Service as of national

economic importance, species that are subject to

treaties or international convention to which the

United States is a party, and anadromous fish;

- is designed to benefit species that have been listed

as threatened or endangered by the Secretary of the Interior, or

- is located on lands managed as a national wildlife refuge.

(2) 25% of the joint and separable costs assigned to fish and wildlife enhancement, if benefits are other than shown in paragraph 13.a.(1).

b. OMRR.

(1) 25%

14. Studies (Section 105).

a. Reconnaissance. None.

b. Feasibility (Other Than Inland Waterways).

(1) 50%, during study period, not more than one-half may be made by provision of services, materials, supplies or in-kind services necessary to prepare feasibility report.

c. Feasibility (Inland Waterways). None.

15. Preconstruction Engineering and Design (PED).

a. Authorized for Construction.

*Shared in the same percentage as the purposes of the project. If initiated prior to FY 97, the Federal government finances the non-Federal share and is*

*reimbursed*

*for these costs during the first year of construction.*

*Otherwise, PED is financed 75% Federal, 25% non-Federal*

b. Authorized for PED (Section 105).

- (1) 50%, of the cost of planning and engineering, during planning and engineering.

16. Design (Section 105).

*Shared in the same percentage as the purposes of the project. If initiated prior to FY 97, the Federal government finances the non-Federal share and is reimbursed for these costs during the first year of construction. Otherwise, PED is financed 75% Federal, 25% non-Federal*

17. Dam Safety Modifications To Existing Dams (Section 1203).

a. Construction.

- (1) 15% of modification costs to be assigned to project purposes in accordance with the cost allocation in effect when construction of modification is initiated. Costs so assigned are then shared in accord with the cost sharing in effect for each purpose when the initial project was constructed. Payment will be in accordance with existing contracts for the reimbursable purposes. An exception is made for costs assigned to irrigation, which the Secretary of the Interior is responsible for recovering in accordance with repayment provisions of P.L. 98-404.

b. OMRR.

- (1) Shared the same as basic project OMRR.



DEFINITIONS OF STUDY CLASSIFICATIONS

Active: Authorized studies that are funded, and those which are unfunded but have significant local support, and have reasonable prospects that there is an implementable Federal or non-Federal solution to known problems and opportunities.

Inactive: Authorized studies that are partially funded or unfunded, and which have no local support or have little or no prospects that a study will result on a recommendation for an implementable Federal or non-Federal solution.

DEFINITIONS OF PROJECT CLASSIFICATIONS

Active: Projects which are considered to be necessary and economically justified; engineeringly feasible without requiring modification of the authorized plan beyond the discretionary authority of the Chief of Engineers; supported by local interests as evidenced by recent statements of ability and willingness by responsible bodies to provide local cooperation; and have no anticipated major problems of compliance with those requirements of local cooperation.

Deferred:

a. Projects with doubtful or marginal economic justification, and for which a restudy is necessary to determine whether an economically justified and locally supported plan of authorized scope can be developed.

b. Projects not generally opposed by local interests, who are currently unable to furnish the required cooperation, but it is expected that local cooperation difficulties will be removed in the reasonably near future.

c. Projects whose authorized plan could be significantly affected by an authorized survey investigation, and which should not be undertaken pending the outcome of the survey and Congressional action based thereon.

Inactive:

a. Projects whose lack of economic justification is obvious, or was definitely determined, and for which it is apparent that a current restudy could not develop an economically justified plan.

b. Projects which, as authorized, are not adequate to meet current and prospective needs, and which would require such substantial modifications and involve such increased costs to obtain an adequate improvement that they should not proceed without new authorization.

c. Projects generally opposed by local interests, or for which there is no reasonable prospect that the required local cooperation will be forthcoming.

d. Projects, or parts thereof, which have been accomplished by local interests, or another agency, or which have been superseded by another project or for other reasons are no longer required.