



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

NOV 10 2008

CECW-MVD

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

SUBJECT: Implementation of Section 7009 of the Water Resources Development Act 2007 (WRDA 2007)

1. Reference is made to the following:

a. ASA(CW) memorandum of 1 May 2008, subject as above, which requested the development of a detailed plan to establish the Louisiana Water Resources Council; and

b. Section 2034 of WRDA 2007 and supporting implementation guidance in EC 1105-2-410, Water Resources Policies and Authorities – Review of Decision Documents, dated 22 August 2008.

2. We are providing a recommended charter for the Louisiana Water Resources Council (LWRC). This charter outlines the institutional framework of the LWRC, including their responsibilities, membership appointment and terms of office, general council operations, and independent external peer review (IEPR) process. The LWRC shall follow the processes and procedures for conducting an IEPR generally in accordance with procedures contained in EC 1105-2-410, which is included as information as enclosure 2.

3. As noted in this charter, the LWRC is subject to the Federal Advisory Committee Act and the activities undertaken by the LWRC shall be carried out in conformance with the requirements of the Act. These activities include: filing of the Charter of the LWRC; notifying the public in advance of meetings of the LWRC; keeping detailed minutes of all LWRC meetings; and granting public access to the documents prepared for and by the LWRC.

4. Once you have approved a charter, we will coordinate with your office as well as with the appropriate congressional authorization and appropriations committees on the charter.

5. In addition we will continue towards initiating the establishment of the LWRC by first identifying a liaison for the LWRC. This liaison will work with the Commander of the Mississippi Valley Division, Headquarters and your office to further develop and implement the plan to establish the LWRC in accordance with the charter. This will first include the filing of the charter of the LWRC.

FOR THE COMMANDER:

STEVEN L. STOCKTON, P.E.
Director of Civil Works

Encls

Louisiana Water Resources Council

Charter

October 31, 2008

Preamble

The Assistant Secretary of the Army for Civil Works (Secretary) hereby establishes the Louisiana Water Resources Council, as required by Section 7009 of the Water Resources Development Act of 2007, hereinafter referred to as "WRDA 07". In accordance with section 7009, the Louisiana Water Resources Council, hereinafter referred to as the "LWRC", shall serve as the exclusive Independent External Peer Review (IEPR) panel for activities conducted by the U.S. Army Corps of Engineers (USACE) in the areas in the State of Louisiana declared as major disaster areas in accordance with Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

1. Convening Authority

- a. The LWRC is convened under the authority of Section 7009 of the WRDA 07.
- b. The information provided in this charter builds upon the general requirements for IEPR established in USACE implementation guidance for Section 2034 of WRDA 2007 (issued as EC 1105-2-410, Water Resource Policies and Authorities – Review of Decision Documents, dated August 22, 2008), and is subject to any subsequent revisions to USACE peer review guidance.

2. Purpose

- a. The purpose of the LWRC is to be the exclusive peer review panel to conduct IEPR of all projects and studies in the State of Louisiana that fall under the purview of Section 7009 and that would be subject to Independent External Peer Review as defined in Section 2034 of WRDA 2007 and EC 1105-2-410.

3. Responsibilities

- a. The LWRC shall provide an independent assessment of the project or work product that is the subject of the IEPR, including the LWRC's assessment and findings related to the adequacy and acceptability of the economic, engineering, and environmental methods, models, data, and analyses used to formulate and evaluate plans, as well as an assessment of the range of alternatives, and the adequacy of risk and uncertainty analysis. The Chief of Engineers shall consider the assessment provided by the LWRC and shall prepare a written response to the assessment, which shall be made available to the public, including through electronic means on the Internet.
- b. In accordance with USACE implementation guidance for Sec 2034 (EC 1105-2-410 and any subsequent peer review guidance), the requirement

for conducting an IEPR applies to all activities, including feasibility studies (as defined in ER 1105-2-100, paragraph 4-1); reevaluation studies and reports associated with significant project modifications and any other project studies which lead to decision documents that require a report of the Chief of Engineers; additional congressional authorization; or preparation of an Environmental Impact Statement (EIS).

- c. The LWRC shall follow the processes and procedures for conducting an IEPR generally in accordance with procedures contained in EC 1105-2-410 and any subsequent peer review guidance.
- d. The LWRC is subject to the Federal Advisory Committee Act and activities undertaken by the LWRC shall be carried out in conformance with the requirements of the Act.
 - i. These activities shall include but not be limited to:
 - 1. Filing of the Charter of the LWRC;
 - 2. Publicly noticing in advance meetings of the LWRC;
 - 3. Keeping detailed minutes of all LWRC meetings; and
 - 4. Granting public access to the documents prepared for and by the LWRC.

4. Membership Appointment and Terms of Office

- a. Membership of the LWRC shall consist, at a minimum, of five nationally recognized independent experts approved by the Assistant Secretary of the Army for Civil Works. The United States Geological Service and national societies, such as the American Society of Civil Engineers, the Society of American Military Engineers or other societies of similar stature, shall prepare a list of nominees for the Assistant Secretary's consideration and approval.
 - 1. For the first term, two of the five nationally recognized independent experts shall serve for a term not to exceed two years and the remaining three of the five nationally recognized independent experts shall serve for a term not to exceed three years. Thereafter, each member shall serve for two years and shall be replaced on a rotating basis.
 - 2. The LWRC's five nationally recognized independent experts shall be responsible for identifying and selecting additional members to serve on the LWRC based on requirements necessitated by the technical aspects of any individual project study that will undergo IEPR.
 - 3. The additional members shall be selected in accordance with the guidelines for selection that are outlined in EC 1105-2-410, Appendix D.
 - 4. The individual who shall serve as the Chairperson of the LWRC shall be selected by, and from amongst, the individual experts who comprise the LWRC and shall serve as Chairperson for a period of two years or more.

5. Members of the LWRC shall sign a non-conflict of interest disclosure similar to the National Academy of Sciences.
- b. Liaison, Louisiana Water Resource Council
 1. The Mississippi Valley Division (MVD) Commander shall designate the individual from the USACE who will serve as the liaison to the LWRC.
 2. The liaison shall be responsible for organizing and coordinating the day to day operations and requirements of the LWRC.
 3. The position of the liaison shall not be subject to the term limitations delineated in (a) above.

5. General Council Operations and Independent External Peer Review Process

- a. The MVD Commander shall identify the projects that will be subject to IEPR in accordance with Section 2034 of WRDA 07 and EC 1105-2-410.
- b. The liaison shall be responsible for working with the MVD Commander in the development of yearly review plans for the LWRC and for ensuring that appropriate staffing and funding levels for the LWRC are maintained, to the maximum extent practicable.
- c. MVD shall provide guidance to the LWRC through the liaison. The guidance shall include instructions regarding the scope of the review and the specifics of the advice being sought.
- d. The liaison shall be responsible for leading and coordinating with the respective Planning Center of Expertise as necessary for IEPR activities that fall under the purview of the LWRC.
- e. The MVD Commander shall ensure that the LWRC is provided sufficient information to carry out the IEPR. The information shall be provided through the liaison and shall include, among other things, the Review Plan for the project that is the subject of the IEPR and background information about key studies or models, so as to enable the LWRC to understand the data, analytic procedures, and assumptions used to support the key findings or conclusions.

6. Funding

Funding for the labor and travel of LWRC and the liaison shall be provided out of project funds for each project that requires an IEPR.

7. References.

- a. WRDA 2007, Section 7009
- b. WRDA 2007, Section 2034
- c. Department of Army, U.S. Army Corps of Engineers, Engineering Circular Number 1105-2-410, dated August 22, 2008