DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

CECW-P

AUG 30 2016

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Implementation Guidance for Section 2045(l) of the Water Resources Development Act (WRDA) of 2007, as amended by Section 1005(a)(1) of the Water Resources Reform and Development Act (WRRDA) of 2014, Categorical Exclusion Survey

1. Section 2045(l) of the Water Resources Development Act (WRDA) of 2007, as amended by Section 1005(a)(1) of the Water Resources Reform and Development Act (WRRDA) of 2014 (Public Law 113-121) requires that the Secretary of the Army survey the use by the Corps of Engineers of categorical exclusions in projects since 2005 and publish a review of the survey. If the survey identifies a category of activities that merit establishing a new categorical exclusion, then the Secretary is to publish a notice of proposed rulemaking to propose any new categorical exclusion(s). The Secretary is also to solicit requests from other Federal agencies and project sponsors for new categorical exclusions. A copy of Section 2045(l) of WRDA 2007, as amended, is enclosed.

2. CECW-P, in consultation with the ASA(CW), will prepare a survey to be completed by each Planning component within a district or division. The survey will capture National Environmental Policy Act (NEPA) compliance undertaken by Planning components since 2005, including, but not limited to, feasibility studies, reconnaissance studies, watershed plans, post-authorization change reports, limited reevaluation reports, general reevaluation reports, or 33 U.S.C. 408 permissions. The survey will also include NEPA compliance undertaken by Planning on behalf of other functional areas within Civil Works such as Operations. Because Section 1005 of WRRDA 2014 is directed at environmental compliance for water resource projects and Regulatory has a separate list of categorical exclusions, the survey will not include NEPA compliance for Regulatory actions.

3. In addition to the internal survey, CECW-P will prepare a notice to be published in the Federal Register soliciting requests for new categorical exclusions from other Federal agencies and non-federal sponsors. Such notice will include a list of all currently approved categorical exclusions for Civil Works. Additionally, the notice will provide information on what a categorical exclusion is and is not.

4. Upon receipt of all district and division responses to the survey and comments from the Federal Register notice, CECW-P will prepare a review of the results of the survey

and notice. The review will cover the following items and will be posted on the USACE website:

a. The types of actions that were categorically excluded or could be the basis for developing a new categorical exclusion;

b. Any requests previously received for new categorical exclusions; and

c. A determination if there is a category of activities that merit establishing a new categorical exclusion.

5. If the review results in a determination that there is a category of activities that merit establishing a new categorical exclusion, CECW-P, in coordination with the ASA(CW), will consult with the Council on Environmental Quality (CEQ) on the potential new categorical exclusion(s) in accordance with 40 C.F.R. Part 1507.3(a) and Part IV. of CEQ's Final Guidance for Federal Departments and Agencies on Establishing, Applying, and Revising Categorical Exclusions Under the National Environmental Policy Act, dated 6 December 2010. CECW-P will then proceed with preparing a notice of proposed rulemaking for the new proposed categorical exclusion(s) for the ASA(CW)'s consideration.

Encl

THEODORE A. BROWN, P.E.
Chief, Planning and Policy
Directorate of Civil Works

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Enclosure: Text of Section 2045(l) of the Water Resources Development Act (WRDA) of 2007, as amended by Section 1005(a)(1) of the Water Resources Reform and Development Act (WRRDA) of 2014

"(l) CATEGORICAL EXCLUSIONS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Water Resources Reform and Development Act of 2014, the Secretary shall—

"(A) survey the use by the Corps of Engineers of categorical exclusions in projects since 2005;

"(B) publish a review of the survey that includes a description of—

"(i) the types of actions that were categorically excluded or could be the basis for developing a new categorical exclusion; and

"(ii) any requests previously received by the Secretary for new categorical exclusions; and

"(C) solicit requests from other Federal agencies and project sponsors for new categorical exclusions.

"(2) NEW CATEGORICAL EXCLUSIONS.—Not later than 1 year after the date of enactment of the Water Resources Reform and Development Act of 2014, if the Secretary has identified a category of activities that merit establishing a categorical exclusion that did not exist on the day before the date of enactment of the Water Resources Reform and Development Act of 2014 based on the review under paragraph (1), the Secretary shall publish a notice of proposed rulemaking to propose that new categorical exclusion, to the extent that the categorical exclusion meets the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (or successor regulation).