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DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
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EC 1105-2-408

Circular
No. 1105-2-408

31 May 2005

EXPIRES 30 SEPTEMBER 2007
Planning
PEER REVIEW OF DECISION DOCUMENTS

1. Purpose. This Circular establishes procedures to ensure the quality and credibility of Corps decision documents by adjusting and supplementing the current review process. It complies with the Final Information Quality Bulletin for Peer Review by the Office of Management and Budget (referred to as the "OMB Bulletin"). This Circular presents a framework for establishing the appropriate level and independence of review, assigns responsibility for conducting Independent Technical Review (ITR) and External Peer Review (EPR) of applicable decision documents to the Planning Centers of Expertise (PCX), and details requirements of review documentation and dissemination.

2. Applicability.

a. Offices. This Circular applies to all U.S. Army Corps of Engineers' elements, including the Headquarters, major subordinate commands, laboratories, and district commands having Civil Works responsibilities.

b. Types of Studies and Reports.

(1) This Circular applies to all feasibility studies and reports (as defined in ER 1105-2-100, paragraph 4-1a(2)) and any other studies that lead to decision documents that require authorization by the U.S. Congress, where the feasibility cost sharing agreement or a similar cost sharing agreement has not been signed as of the date of this Circular. This Circular also applies to all other pre-authorization and post-authorization studies or reports that meet criteria for external peer review in paragraph 9 below regardless of the study or project authority, the study or report approval level, or the date of a cost sharing agreement.

(2) This Circular will generally not apply to decision documents that may be approved by a Division Commander (detailed below). All such decision documents will continue to undergo ITR that will "ensure the quality and credibility of the government's scientific information" in accordance with the quality assurance and quality control procedures of each major subordinate command. A vertical team (involving district, major subordinate command and Headquarters members) may choose to apply the peer review procedures of this Circular to any study or report if they determine it is advisable to do so.

(a) Reconnaissance reports (including 905(b) analyses) that lead to feasibility reports (as defined in ER 1105-2-100, paragraph 4-1a(1)).

(b) Decision documents prepared under the Continuing Authorities Programs (as defined in ER 1105-2-100, Appendix F).

(c) Post-authorization decision documents, defined in ER 1105-2-100, paragraph 4-1b, where approval authority has been delegated to the division commander in EC 1165-2-205. Peer review requirements for these documents will be addressed during preparation of the "Project Study Issue Checklist" (see Appendix A of EC 1165-2-205).

(d) Other types of studies and reports defined in ER 1105-2-100, paragraph 4-1c.

c. Subject Matter.

(1) This Circular applies to "scientific information", "influential scientific information", "scientific assessment", and "highly influential scientific assessment" as defined in the OMB Bulletin, paragraphs I(5) - I(7) and III(1). This includes factual inputs, data, the use of models, analyses, assumptions, and other scientific and engineering matters that inform decision-making. In the Corps this typically includes, but is not limited to: economic and environmental assumptions and projections, evaluation data, economic analyses, environmental analyses, engineering analyses (including hydrology and hydraulics, geotechnical, structural, etc.), methods for integrating risk and uncertainty and for conducting trade-offs, and the use of models in the evaluation of engineering, economic and environmental effects. Any biological opinions and similar scientific judgments provided by other Federal agencies pursuant to Federal requirements are subject to those agencies' regulations for compliance with the OMB Bulletin. Data, analyses, and other scientific and engineering matters that will be peer reviewed are typically documented in technical appendices that support but are separate from main reports. In general, peer reviews will focus on technical appendices rather than solely main reports or NEPA documents (including environmental assessments and environmental impact statements).

(2) Models used in the preparation of decision documents covered by this Circular will be reviewed in accordance with EC 1105-2-407, Planning Models Improvement Program: Model Certification, and are not subject to the requirements of this Circular. The uses and applications of models in individual studies that lead to the preparation of decision documents covered by this Circular will be reviewed in accordance with the requirements of this Circular.

(3) This Circular does not apply to policy determinations and reviews, and agency exercise of discretionary authority which are beyond the scope of scientific and engineering peer review. Policy matters beyond the scope of peer review include, but are not limited to: adherence to Federal, Army and Corps policies, and selection of a recommended plan. Policy review is the responsibility of the Corps and the Army and will continue to be accomplished according to existing policy review procedures. Policy comments that may be raised during peer reviews covered by this Circular will be

provided to the District or other Corps office responsible for the decision document under review for consideration through existing policy review procedures.

(4) Principal findings, conclusions and recommendations in official reports of the National Academy of Sciences are generally presumed to have been adequately peer reviewed, if study area conditions and underlying science and technology have not significantly changed since the review.

(5) This Circular also does not apply to information that is:

(a) Related to certain national security, foreign affairs, or negotiations involving international trade or treaties where compliance with this Circular would interfere with the need for secrecy or promptness.

(b) Disseminated in the course of an individual agency adjudication or permit proceeding (including a registration, approval, licensing, site-specific determination), unless the Corps determines that peer review is practical and appropriate and that the influential dissemination is scientifically or technically novel or likely to have precedent setting influence on future adjudications and/or permit proceedings.

(c) A health or safety dissemination where the Corps determines that the dissemination is time-sensitive.

(d) A Corps regulatory impact analysis or regulatory flexibility analysis subject to interagency review under Executive Order 12866, except for underlying data and analytical models used.

(e) Routine statistical information released by Federal statistical agencies (e.g., periodic demographic and economic statistics) and analyses of these data to compute standard indicators and trends (e.g., unemployment and poverty rates).

(f) Accounting, budget, actuarial, and financial information, including that which is generated or used by agencies that focus on interest rates, banking, currency, securities, commodities, futures, or taxes.

(g) Information disseminated in connection with routine rules that materially alter entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof.

(h) Responses to letters of inquiry, responses to FOIA requests, and internal disseminations.

3. References. See Appendix C

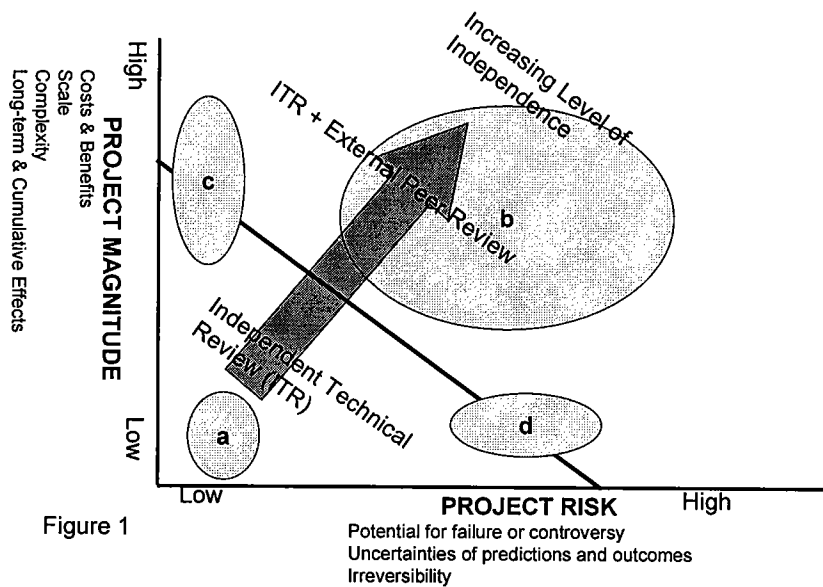
4. Background.

a. Currently, the districts are responsible for reviewing the technical aspects of decision documents through an approach called “independent technical review” (ITR). ITR is a critical examination by a qualified person or team that was not involved in the day-to-day technical work that supports a decision document. ITR is intended to confirm that such work was done in accordance with clearly established professional principles, practices, codes and criteria. It is seamless, ongoing throughout the planning processes, and often involves participation by experts elsewhere in the Corps as well as from other agencies, universities, and consultants. In addition to ITR, decision documents are reviewed throughout the study process for their compliance with laws and policy. Policy review culminates in a Washington level policy compliance review conducted at the conclusion of the study to assure that the recommendations in the report complies with policy and that the report is ready for preparation of the draft Chief’s Report.

b. External Peer review (EPR) is herein added to the Corps existing review process in special cases where the risk and magnitude of the proposed project are such that a critical examination by a qualified person or team outside of the Corps and not involved in the day-to-day production of a technical product is necessary. EPR will similarly be added in cases where information is based on novel methods, presents complex challenges for interpretation, contains precedent-setting methods or models, presents conclusions that are likely to change prevailing practices, or is likely to affect policy decisions that have a significant impact. “[External peer] review should be conducted to identify, explain, and comment upon assumptions that underlie economic, engineering, and environmental analyses, as well as to evaluate the soundness of models and planning methods. Panels should also be able to evaluate whether the interpretations of analysis and conclusions based on analysis are reasonable. To provide effective review, in terms of both usefulness of results and of credibility, review panels should be given the flexibility to bring important issues to the attention of decision makers. However, review panels should be instructed to not make a recommendation on whether a particular alternative should be implemented, as the Chief of Engineers is ultimately responsible for the final decision on a planning or reoperations study.” (Reference k p. 63). External panels may, however, offer their opinions as to whether there are sufficient analyses upon which to base a recommendation for construction, authorization, or funding.

c. Figure 1 illustrates the increasing degree of independence required for technical review as the project magnitude (costs and benefits, scale, complexity, and long-term and cumulative effects) and project risk (potential for failure or controversy, uncertainties of predictions and outcomes, and irreversibility) increase.

LEVEL OF REVIEW



For example, project “a” ranks low on both the project risk and magnitude scales and would require routine ITR and policy reviews. On the other hand, project “b” is high on both scales and would require basic ITR as well as external peer review. Projects “c” and “d” would require both Corps and outside reviewers on the ITR team to address the portions of the projects that cause them to rate high on the magnitude or risk scales (see paragraph 8a).

5. Policy.

a. Scientific and engineering information that underlies decisions and recommendations in decision documents, that are to be disseminated to the public, will be reviewed to ensure its technical quality. Internal review by subject matter experts by ITR is required for all work products of the Civil Works program. Additional EPR by independent subject matter experts outside the Corps is a requirement for certain types of decision documents as defined later in this Circular.

b. To the extent permitted by law, the Corps shall conduct review of all decision documents covered by this Circular. Review, both ITR and EPR, will continue to follow many of the same principles and procedures as defined in the quality assurance and quality control procedures of each major subordinate command. ITR and EPR review is expected to be completed before the District Commander signs the report; therefore all peer review costs shall be cost shared. To the maximum extent practicable, peer reviews shall be conducted in a manner so as to not cause delays in study or project completion. The study PMP must identify the review requirements, process, cost and schedule as integrated features of the overall study execution plan.

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c. ITR of all decision documents covered by this Circular will be conducted using DrChecks. Use of DrChecks will document all ITR comments, responses and associated resolution accomplished throughout the study delivery process. The use of DrChecks for EPR and policy and legal compliance reviews will remain optional, at the discretion of the respective review teams.

6. Review Plan. Each decision document covered by this Circular shall have a peer review plan included in its Project Management Plan. The peer review plan will be published on the Web as outlined in paragraph 7. The peer review plan shall be prepared by the District or other Corps office responsible for the decision document, in coordination with the appropriate PCX (see paragraph 7), and shall include:

a. A paragraph including the title, subject and purpose of the decision document, as well as the names of team members and designated points of contact in the responsible District and PCX to whom inquiries may be directed to learn the specifics of the plan.

b. Whether the Corps report to be disseminated is likely to be influential scientific information or a highly influential scientific assessment and to undergo ITR only or EPR as well.

c. The timing of the peer review (including deferrals).

d. Whether the external peer review (if any) will be conducted through a panel or individual letters, or whether an alternative procedure will be employed.

e. How and when there will be opportunities for the public to comment on the decision document to be peer reviewed

f. Whether significant and relevant public comments will be provided to the reviewers before they conduct their review.

g. The anticipated number of reviewers.

h. A succinct description of the primary disciplines or expertise needed in the review.

i. Whether external peer reviewers will be selected by the Corps or by a designated outside organization.

j. Whether the public, including scientific or professional societies, will be asked to nominate potential peer reviewers.

7. Planning Centers of Expertise.

a. The Corps PCX are responsible for the accomplishment and quality of ITR and external peer review for decision documents covered by this Circular. Centers may conduct the review or manage review to be conducted by others. Centers must use

subject matter experts outside the Corps to conduct EPR, and therefore they will manage rather than conduct EPR.

b. Review will be assigned to the appropriate Corps PCX based on business programs. Appendix B is a list of the Centers and their primary business programs. Districts shall develop peer review plans in coordination with the Centers based on the primary purpose of the basic decision document to be reviewed.

c. For decision documents with multiple purposes (or project purposes not clearly aligned with the centers listed in Appendix B), the Planning Advisory Board, comprised of the Leaders of the Planning Community of Practice at the Headquarters and Division offices, will assign decision documents to a PCX to conduct the review. The assigned PCX will coordinate with other PCX and offices to ensure that a review team with appropriate expertise is assembled.

d. Instead of complying with the procedures for EPR described below, the PCX may apply one of the following alternative procedures to a designated decision document or group of decision documents:

(1) Rely on the principal findings, conclusions and recommendations of a report produced by the National Academy of Sciences.

(2) Commission the National Academy of Sciences to peer review a Corps decision document.

(3) Employ an alternative scientific procedure or process, specifically approved by the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget in consultation with the Office of Science and Technology Policy that ensures the Corps scientific information satisfies applicable information quality standards. Centers' requests to use an alternative procedure pursuant to this paragraph will be sent to the Corps Headquarters, Office of Water Project Review (OWPR), for coordination with these Offices.

e. Each PCX shall post on its website, and update at least every three months, an agenda of peer review plans. The agenda shall describe all decision documents covered by this Circular in the Center's area of responsibility, and describe the review plan for each entry on the agenda. The Center shall provide a link from the agenda to each document that has been made public pursuant to this Circular. Centers are encouraged to offer a list serve or similar mechanism to alert interested members of the public when entries are added or updated. The Headquarters, Office of Water Policy Review (OWPR), will establish and maintain a web site that lists all the review plans and provides links to the appropriate Center. OWPR shall establish a mechanism for allowing the public to comment on the adequacy of the review plans, and shall consider public comments on review plans.

f. Annual Report. By 1 November each year, each PCX shall provide the Corps Headquarters, Office of Water Project Review, a summary of the peer reviews conducted by the Center during the previous fiscal year. The Headquarters will provide the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget with a consolidated summary of the Corps peer reviews by 15 December of each year. Annual summaries of peer reviews shall include:

- (1) The number of peer reviews conducted subject to this Circular.
- (2) The number of times alternative procedures were invoked.
- (3) The number of times waivers or deferrals were invoked (and in the case of deferrals, the length of time elapsed between the deferral and the peer review).
- (4) Any decision to appoint a reviewer pursuant to any exception to the applicable independence or conflict of interest standards of the OMB Bulletin, including determinations by the Secretary of Defense pursuant to Section III (3)(c) of the OMB Bulletin and paragraph 9 below.
- (5) The number of peer review panels that were conducted in public and the number that allowed public comment.
- (6) The number of public comments provided on each peer review plan.
- (7) The number of peer reviewers that the Center used that were recommended by professional societies.

8. Independent Technical Review. PCX are responsible for the accomplishment and quality of ITR for decision documents covered by this Circular. Centers may conduct ITR or manage the review conducted by others. ITR will follow existing requirements and those described in the following subparagraphs and elsewhere in this Circular.

a. Criteria for ITR. All decision documents covered by this Circular will undergo ITR. Peer review requirements will be fulfilled by ITR if the subject matter (including data, use of models, assumptions, and other scientific and engineering information) is not novel, is non-controversial, is not precedent setting, does not have significant interagency interest, and does not have significant economic, environmental and social effects to the nation. The level of peer review should be commensurate with the significance of the information being reviewed. In limited circumstances, ITR by panels of Corps and external peer reviewers may be conducted on significant scientific and engineering information. As the significance of this information increases, peer review will rise to the level of also requiring EPR (See Figure 1) as described in paragraph 9 below.

b. Reviewers' Expertise and Balance. Subject matter experts from within the Corps or outside the Corps may conduct ITR. Peer reviewers shall be selected by the PCX based on expertise, experience, and skills, including specialists from multiple disciplines

