



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

CECW-P

APR 17 2019

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Revised Implementation Guidance for Section 1148 of the Water Resources Development Act (WRDA) of 2018, Beneficial Use of Dredge Material

1. The Assistant Secretary of the Army, Civil Works approved on 12 April 2019 Section 1148 of WRDA 2018. The attached implementation guidance is posted for internal and external use on the U.S. Army Corps of Engineers official WRDA website: <http://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/>.
2. Please ensure wide dissemination of this guidance. Questions regarding this implementation guidance should be directed to the Headquarters POC, Joseph Wilson, Program Manager, Operations and Regulatory Division, at (202) 761-7697 or joseph.r.wilson@usace.army.mil

A handwritten signature in blue ink, appearing to read "J. Dalton".

JAMES C. DALTON, P.E.
Director of Civil Works

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DEPARTMENT OF THE ARMY
ASSISTANT SECRETARY OF THE ARMY
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APR 12 2019

MEMORANDUM FOR THE COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

SUBJECT: Implementation Guidance for Section 1148 of the Water Resources Development Act of 2018, Beneficial Use of Dredged Material

1. References:

a. Implementation Guidance for Section 1038 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) and Section 1122(i)(2) of the Water Resources Development Act of 2016 (WRDA 2016), Regional Sediment Management, dated 5 February 2018.

b. Engineer Regulation 405-1-12, Chapter 12.

c. Engineer Regulation 1165-2-130.

2. Section 1148 of the Water Resources Development Act of 2018 (WRDA 2018), provides that the Secretary may, in carrying out a project for the beneficial reuse of sediment to reduce storm damage to property under Section 204 of the Water Resources Development Act of 1992 (WRDA 1992) (33 U.S.C. 2326) that involves only a single application of sediment, grant a temporary easement necessary to facilitate the placement of sediment, if the Secretary determines that granting a temporary easement is in the interest of the United States. If the Secretary grants a temporary easement under subsection (a) with respect to a project, that project shall no longer be eligible for future placement of sediment under Section 204 of WRDA 1992 (33 U.S.C. 2326).

3. For purposes of Section 1148, the term "grant" is interpreted to mean "approve." Section 204 projects do not require the Secretary to grant easements. However, the Secretary is responsible for determining the real property interests that non-Federal interests must provide and for approving deviations from standard interests and estates pursuant to the policies and procedures in reference 2b.

4. As reflected in paragraph 9 of reference 1a, U.S. Army Corps of Engineers (Corps) policy already endorses the use of temporary easements to provide the affirmative rights necessary for Section 204 projects that involve a single application of sediment for storm damage reduction purposes, so long as permanent conditions of public use and access consistent with the policy in paragraph 6 of reference 1c are established through other means. In cases where permanent conditions of public use and access cannot be established, the placement of dredged material may proceed if the non-

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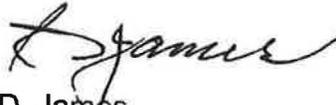
Federal interest is willing to fund all costs of beneficial use exceeding the Base Plan for the water resources development project that generates the dredged material.

5. Subsection (b) of Section 1148 prohibits a project involving a single application of sediment to reduce storm damage to property and for which the Secretary has approved a temporary easement from being eligible for future placements under Section 204. District Commanders, in coordination with non-Federal interests, must take this restriction into consideration when formulating real property requirements for Section 204(d) projects that reduce storm damage to property. Permanent easements or fee title for the material placement areas must be acquired for a project in order for the site to remain eligible for future placements.

6. This guidance shall be transmitted to the appropriate Corps Division and District Commanders and posted to the Corps' WRDA website within five business days of receipt (written or electronic) from this office. Guidance shall be transmitted and posted as is and without additional guidance attached.

7. Questions regarding this implementation guidance should be directed to Gib Owen, Office of the Assistant Secretary of the Army for Civil Works, at gib.a.owen.civ@mail.mil or 703-695-4641

Enclosure



R.D. James
Assistant Secretary of the Army
(Civil Works)

Water Resources Development Act of 2018, Section 1148 - Beneficial Use of Dredged Material

(a) In General. In carrying out a project for the beneficial reuse of sediment to reduce storm damage to property under section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326) that involves only a single application of sediment, the Secretary may grant a temporary easement necessary to facilitate the placement of sediment, if the Secretary determines that granting a temporary easement is in the interest of the United States.

(b) Limitation. If the Secretary grants a temporary easement under subsection (a) with respect to a project, that project shall no longer be eligible for future placement of sediment under section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326).