



Section 203 of WRDA 1986 NFI Studies

AAPA Spring Meeting
March 30, 2020



Overview

- Background
- Objective
- Process
- Role of the District
 - Technical Assistance
 - Other Assistance
 - Credit
- Program Update



Background

- WRDA 1986, Section 203 – authorized non-Federal interests to conduct feasibility studies and submit to the Secretary for review.
 - ER 1165-2-209
- WRDA 2014, Section 1014a– expanded application to development of any water resource development projects
 - Implementation Guidance issued Feb 2016 via revisions to ER 1165-2-209
- WRDA 2016, Section 1126 – provision allowing Secretary to provide technical assistance for any aspect of a feasibility study
 - Implementation Guidance issued Apr 2017; revised June 2018
- WRDA 2018, Section 1152 – provisions allowing Secretary to provide review assistance and activities that are the responsibility of the Secretary (inherently governmental activities)
 - Implementation Guidance signed May 3, 2019
 - Further updates to ER 1165-2-209 to be completed



Objectives



- Provide maximum flexibility to the NFI to manage study risk, cost and schedule.
- NFI must provide sufficient information in their report to demonstrate engineering soundness, economic justification, and environmental acceptability (3E's) for determining Federal interest and feasibility.



Process Outcomes



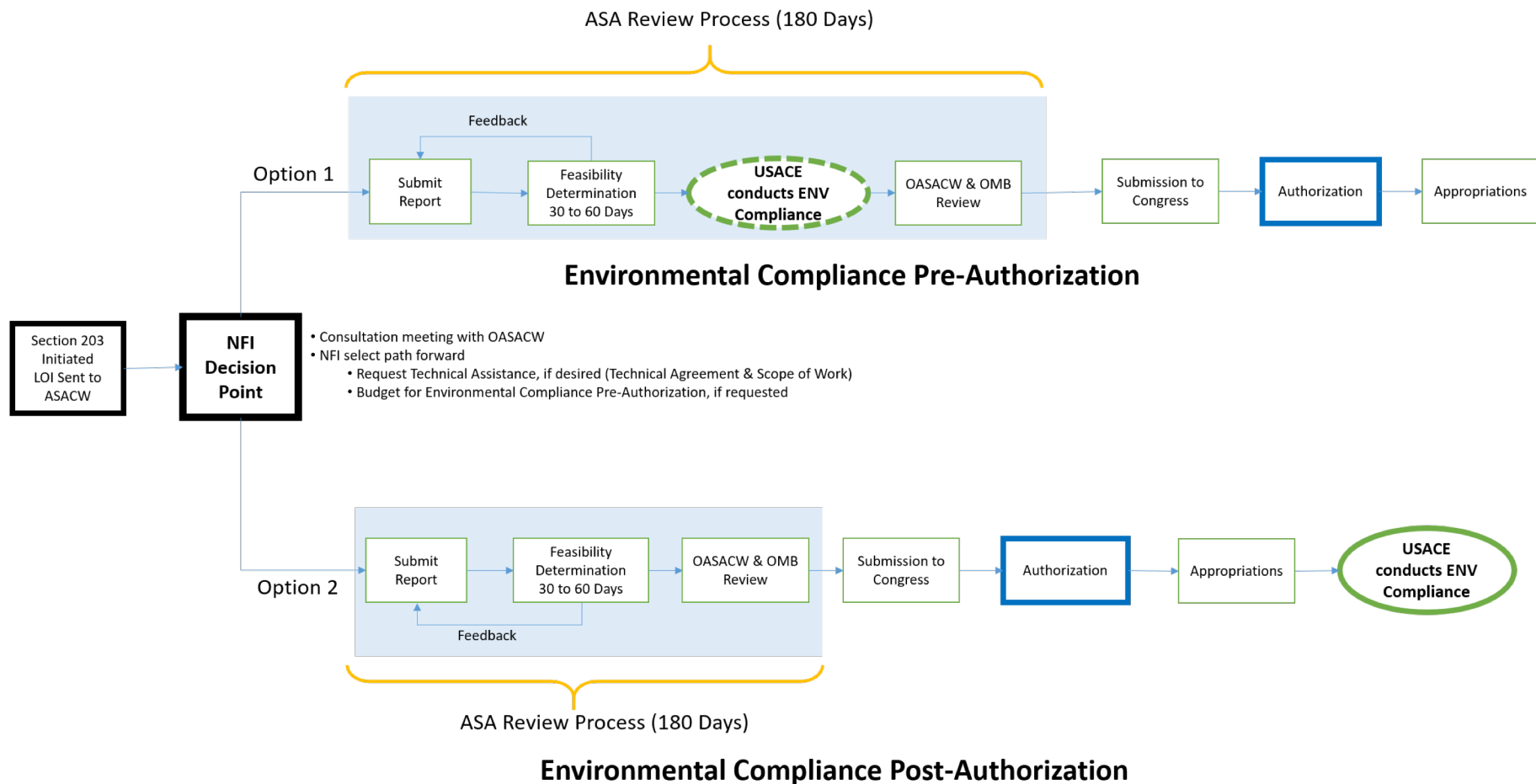
- Secretary must determine:
 - Project feasibility
 - Concerns with the plan or design of the proposed project
 - Conditions for implementation of the project
- Decision Document: Review Assessment



Approach



Section 203 Feasibility Review Process





Role of the District/MSC



- Agreements
- Technical Assistance
- Reviews, Inspections, Certifications...that are the Responsibility of the Secretary
- Credit



- **REMEMBER**

- **THIS IS NOT A CORPS STUDY**
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Technical Assistance

- What is it?
 - Existing study area factual or technical information (performing a wetland delineation, or baseline information)
 - Running models based on the NFI input
 - Real Estate activities, etc.
 - Clarification of existing guidance
- What is it not?
 - A turnkey feasibility study
 - Determining best plans (formulation, economics, & engineering assumptions)
 - Performing NEPA analysis, consulting with other agencies, tribes
 - QA/QC, ATR, IEPR



Technical Assistance

- Agreement with the NFI?
 - Sponsor approaches district
 - MOA with scope of work (template is available)
 - Approved at the MSC
 - NFI provides 100% of the funds
 - No credit towards construction of the project
- Technical Assistance ends with the NFI submittal to the Secretary's office.



Reviews, Inspections, Certifications...that are the Responsibility of the Secretary



- What is it?
 - Reviews, Inspections, Certifications and Activities that are the responsibility of the Secretary. (inherently governmental functions)
 - QA/QC, ATR of NFI products
 - NEPA activities
 - Coordination with Federal/State Agencies
 - Mitigation development
 - All reviews must be completed within 30 days of signing the MOA and submits results to the Secretary
- Review assistance ends with the Secretary's submittal of the report to OMB for clearance.



Reviews, Inspections, Certifications...that are the Responsibility of the Secretary



- Agreement with the NFI?
 - Sponsor approaches district
 - MOA with scope of work
 - Approved at the MSC
 - Can use Federal funds (if available) or NFI provides 100% of the funds
 - No credit towards construction of the project
 - All reviews must be completed within 30 days of signing the MOA and submits results to the Secretary
- Reviews assistance ends with the Secretary's submittal of the report to OMB for clearance.



Credit to NFI

- Condition: If the study was authorized for construction AFTER the report was submitted to Congress by the Secretary,

“...the Secretary shall credit toward the non-Federal share of the cost of construction of the project an amount equal to the portion of the cost of developing the study that would have been the responsibility of the United States if the study had been developed by the Secretary.”

EXCEPT: Funds provided by the NFI for Technical Assistance or Reviews are not available for credit towards the portion of the cost to develop the study by the Federal Government.



Program Update

- CY 2018 processed five 203 studies
 - 1 authorized in WRDA 2018 (Everglades)
 - 4 cleared OMB and await authorization
 - 1 recommended for authorization (Baptiste Collette)
 - Most studies require substantial work post-authorization to address the Secretary Findings (~1-3 yrs), including environmental compliance
- CY 2019 received three 203 studies – under review
- More non-Federal interests are conducting 203 studies



Questions