

The Permit Review and Approval Process

The processing of a Section 408 Permit request begins with a written request from an applicant. Along with the written request, a permit application (attached) should be completed and submitted electronically to Spl.408permits@usace.army.mil

Each request for an alteration will be evaluated on a case-by-case basis. After the application is received in the District office, it will be assigned an identification number and be reviewed for completeness. A request for additional information may be sent to notify you of any additional information which may be necessary for the Corps to review your proposed project. Once sufficient information is provided, it is the responsibility of the Corps' Levee Safety Program Manager/Dam Safety Officer (LSPM/DSO), supported by the Project Delivery Team technical staff, to evaluate proposed alterations. The proposal will be evaluated for Impacts of the proposed alteration to flood conveyance, structural integrity, operation and maintenance, NEPA requirements, and flood fighting capabilities as well as meeting Corps policy and criteria. Upon completion of the review, the Applicant is notified whether the proposal is approved or denied.

The following are excerpts from our the Corps' latest policy guidance, *EC1165-2-216 Policy And Procedural Guidance For Processing Requests To Alter Us Army Corps Of Engineers Civil Works Projects Pursuant To 33 USC 408*, defining the Requester's Duties:

Section 408 Step-by-Step Procedures

The procedures have been grouped into nine steps. Not all the steps will be applicable to every Section 408 request. In simple cases, steps may be combined or occur simultaneously. For more complex cases, there may be the need for extensive coordination between the district and requester throughout the process.

(1) Step 1: Pre-Coordination.

Early coordination between USACE, the requester and/or non-federal sponsor, if applicable, is strongly recommended because it will aid in identifying potential issues, focusing efforts, minimizing costs, and protecting sensitive information.

(2) Step 2: Written Request.

The purpose of this step is to document the initiation of the Section 408 process. Information from this step will be used by the district to determine documentation and approval requirements.

(a) All requests for Section 408 permission must be submitted in writing to the District Commander of the appropriate USACE district office having jurisdiction over the USACE project that would be impacted by the alteration.

(b) The written request must include 5 components:

Item 1

a complete description of the proposed alteration including necessary drawings, sketches maps, and plans that are sufficient for the district to make a preliminary determination as to the location, purpose and need, anticipated construction schedule, and level of technical documentation needed to inform its evaluation. Detailed engineering plans and specifications are not required at Step 2, but could be submitted at the same time if available;

Item 2

a written statement regarding whether the requester is also pursuing authorization pursuant to Sections 10/404/103 and, if so, the date or anticipated date of application/pre- construction notification submittal;

Item 3

information regarding whether credit under Section, or other law or whether approval under Section 204(f) is being or will be sought;

Item 4

a written statement of whether the requester will require the use of federally-owned real property or property owned by the non-federal sponsor; and,

Item 5

a written statement from the non-federal sponsor endorsing the proposed Alternation, if applicable.

(3) Step 3: Required Documentation.

The purpose of this step is to outline the documentation necessary for the district to determine whether the proposed alteration would impair the usefulness of the project or be injurious to the public interest.

Technical Analysis and

Design. The minimum level of detail will be 60% complete plans and specifications and supporting technical analysis.

Civil. Each request should clearly identify the existing condition of the portion of the levee, floodwall, or channel project being altered and include plan, profile and design details of the proposed alteration in relation to the existing USACE project.

- (a) Alteration location (Vicinity map and specific alteration location in station or river mile and/or decimal degrees)
- (b) Applicable datum
- (c) Real estate interests, existing and to be acquired, needed for the proposed alteration
- (d) Grading plans
- (e) Layout plan, profiles, and cross-sections of proposed alteration
- (f) Previous inspection reports to assist in identifying existing deficiencies and their proximity to the proposed alteration
- (g) Temporary measures required during construction (bypasses, cofferdams, etc.)

Geotechnical. The following is a list of analyses or information that may be necessary to consider for geotechnical considerations and assessing their impacts if proposed alterations alter the levee, floodwall or channel bank cross-section or penetrate the natural blanket or foundation.

- (a) Erosion control (changes in erosive forces on a slope)
- (b) Material usage/borrow/waste/transport/hauling
- (c) Placement of stockpiles, heavy equipment, or other surcharges etc.
- (d) Results of subsurface investigation – boring logs, test pit logs, laboratory test results
- (e) Seepage analysis
- (f) Settlement analysis
- (g) Stability analysis
- (h) Vegetation

Structural. The following is a list of analyses or information that may be necessary to evaluate the impacts of proposed alterations to concrete, sheetpiling, or drainage structures:

- (b) Design analysis for retaining walls and excavation support system
- (c) Design of shallow or deep foundations, including bearing capacity and settlement analysis if the construction is located within the line of protection or right-of-way and creates potential seepage problems
- (i) Stability analysis including sliding, overturning, bearing, flotation, uplift and any seismic load effects for any alteration to the channel walls and/or flood walls
- (j) Structural drainage control methods
- (k) Water stops and contraction/expansion joints

Hydrologic and Hydraulics System Performance Analysis. The purpose of a hydrologic and hydraulics system performance analysis is to determine the potential hydrologic and hydraulics impacts of proposed alterations. Districts will determine if such an analysis is needed and, if so, the appropriate scope of analysis based on the complexity of the proposed alteration.

The requester will be responsible for the analysis. Hydrologic and hydraulic system performance analyses will be applied to alterations that alter the hydrologic and/or hydraulic conditions (e.g., reservoir operations, bridge constrictions, hydropower installation, etc.)

- (a) Changes in velocity
- (b) Changes in water surface profiles and flow distribution
- (c) Scour analysis
- (d) Sediment transport analysis
- (e) Upstream and downstream impacts of the proposed alterations

Environmental Compliance.

A decision on a Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. While ensuring compliance is the responsibility of USACE, the requester is responsible for providing all information that the district identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and ordinances

Requirements.

A list of all real property interests required to support the proposed alteration must be provided, including those in federally managed lands and those owned by the requester.

Discussion of Executive Order 11988 Considerations.

Maps clearly depicting both existing real estate rights and the additional real estate required must also be provided.

The district may require the requester to submit sufficient data in order that the district may conduct its analysis in accordance with ER 1165-2-

26 to ensure that the proposed alteration is compliant with EO 11988. The request should be assessed as to whether there would be induced development in the floodplain as a result of the proposed alteration and address the positive and negative impacts to the natural floodplain functions.

Requester Review Plan Requirement.

If the district determines a Type II IEPR is required, then at minimum the requester is required to submit a Type II IEPR review plan.

Operations and Maintenance.

Requesters must identify any operations and maintenance requirements needed throughout the life of the proposed alteration and the responsible entity for the operations and maintenance into the future.

Any alteration to a project operated and maintained by a non-federal sponsor and for which an update to the operations and maintenance manual is required, the non-federal sponsor will provide USACE with sufficient information to update the O&M manual. The non-federal sponsor will acknowledge in writing their continued responsibility to operate, maintain, repair, rehabilitate and replace the USACE project at no cost to the government and will hold and save the government free from all damages arising from construction, operation, maintenance, repair, rehabilitation, and replacement of the project.

Other Information. Based on the alteration request, the district may require the requester to provide additional information to complete its evaluation.

(4) Step 4: District-Led Agency Technical Review.

(5) Step 5: Summary of Findings.

(6) Step 6: Division Review (if required). (7)

Step 7: HQUSACE Review (if required). (8)

Step 8: Notification

(9) Step 9: Post-Permission Oversight.

(a) Construction oversight.

(b) As-builts.

Drawings showing alterations as finally constructed will be furnished by the Section 408 permittee to the district after completion of the work. As-builts must be provided within 180 days of construction completion.

(c) Operations and Maintenance (O&M) Manual Updates.

The Section 408 permittee and/or non-federal sponsor is required to provide the district with sufficient information to update the O&M manual, as required. At a minimum, the update should include a description of the new features, reference to the Section 408 approvals, as-builts, and instructions regarding O&M of any new features not included in the existing manual.

(d) Post Construction Closeout. (e)

Administrative Record.

EC 1165-2-216 can be found at:

http://www.publications.usace.army.mil/Portals/76/Publications/EngineerCirculars/EC_1165-2-216.pdf