

Section 408 Step-by-Step Procedures

Requestors are responsible for preparing and submitting a completed Section 408 Permit request along with the required technical and environmental documents. The request should: (1) confirm the technical soundness of the proposed alteration/modification; (2) provide a basis for environmental acceptability; and (3) formally request that a Section 408 Permit be granted to for the proposed alteration or modification. The following represents the steps for each Section 408 permit action:

Step 1: Pre-Coordination. Early coordination between USACE, the requester and/or non-federal sponsor, if applicable, may aid in identifying potential issues, focusing efforts, minimizing costs, and protecting sensitive information. Requestors should review information and requirements shown on the website to incorporate into the proposed request. Pre-application conferences are encouraged for projects of a unique nature or those that involve extensive or critical modifications.

Step 2: Written Request. The initiation of the Section 408 process begins with a written request. The written request is submitted to the District Commander of the appropriate USACE district office having jurisdiction over the USACE project that would be impacted by the alteration. The written request must include the following 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.

* Note: for the LA District, SPL Form 25 assists to generally satisfy this requirement, however, additional information is needed to complete the request.

Step 3: Required Documentation. Requestors are responsible for preparing and submitting the required technical and environmental 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.

Environmental Compliance.

Real Estate Requirements.

Discussion of Executive Order 11988 Considerations.

Requester Review Plan Requirement.

Operations and Maintenance.

Quality Control (QC) is the responsibility of the requester and all submitted documents (including supporting data, analyses, environmental compliance documents, etc.) should have undergone a QC review, prior to submittal.

Step 4: Decision-making Process. The District will evaluate each request for an alteration on a case-by-case basis. The technical staff will evaluate proposed alterations against Corps standards (using current USACE guidance, criteria, and staff experience), and ensure that the proposed alteration will not be injurious to the public, will not impair the usefulness of the project, and is not in conflict with any known laws and/or regulations, as set forth by the policies and procedures in EC 1165-2-216. Upon completion of the review, notification is provided with either the issuance of the 408 Permission for the proposed action, a denial of the request, or conditions requesting additional information or revisions to the proposal. If a denial is warranted, a written explanation of the reason for denial is provided.

Final Step: Post-Permission Oversight. Once the District approves the proposed alterations and issues the 408 Permission, the permittee is then responsible for the Post-Permission oversight, which includes the following:

(a) Construction oversight. The Section 408 permittee shall oversee the conduct of the work and ensure construction is in accordance with the issued Section 408 permit and the approved plans and specifications.

(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 an update/supplemental appendix for the O&M manual. 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. Upon construction completion, the Requester shall notify the USACE in writing that all construction is complete. The Requester shall also provide electronic copies of the as-built plans to the USACE, as well as any of the other required documents as required by the Section 408 approval

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