



Section 408 Program

U.S. ARMY CORPS OF ENGINEERS

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Location

Rock Island District

State(s)

IA,IL,MN,MO,WI

Congressional District(s)

IA-1, IA-2, IA-3, IA-4, IL-1, IL-11, IL-13, IL-14, IL-15, IL-16, IL-17, IL-18, IL-2, IL-3, IL-4, IL-7, MN-1, MN-7, MO-6, WI-1, WI-2, WI-3, WI-5, WI-6

Description

The Section 14 of the Rivers and Harbors Act of 1899 and codified in 33 USC 408 (commonly referred to as "Section 408") authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the US Army Corps of Engineers (Corps), to grant permission for the alteration or occupation or use of a Corps civil works project provided the Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project.

On July 31, 2014 the Corps issued Engineer Circular (EC) 1165-2-216, *Policy and Procedural Guidance for Processing Requests to Alter U.S. Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408*. The EC provides the policies and procedural guidance for an overall review process that can be tailored to the scope, scale, and complexity of individual proposed alternations, and provides infrastructure specific considerations for dams, levees, floodwalls, flood risk management channels, and navigation projects. In general, the review process is broken down into nine steps. Not all the steps are applicable to every Section 408 request. In simple cases, steps may be combined or occur simultaneously.

Review Process Steps:

- ✓Pre-coordination with sponsor and applicant
- ✓Written request to the Rock Island District Commander (must include endorsement from non-federal levee sponsor when applicable)
- ✓Required documentation (including but not limited to: maps, plans, specifications, calculations, hydraulic analysis, environmental compliance documents, high water action plan)
- ✓Corps District-led Agency Technical Review
- ✓Summary of Findings from the sponsor/applicant
- ✓Corps Division-level review (when applicable)
- ✓Corps Headquarters' review (when applicable)
- ✓Notification to the sponsor
- ✓Post-permission oversight by the Corps



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It is important to note that all approved alterations must be designed and constructed to applicable Corps design standards. In many cases Corps design standards exceed other federal, state, and local requirements. In addition, issuing a Section 408 permission is considered a federal action which requires each proposal to comply with all federal laws including, but not limited to, the National Historic Preservation Act, Endangered Species Act, and National Environmental Protection Act.

The period of review to complete a Section 408 permission request depends on the scale and complexity of the proposed alteration, completeness of the applicant submitted documentation, and how many other requests are currently under review. It is the Corps' goal to complete each review as expeditiously as possible. Review times range from 60 days for small scale, low risk proposals to years for large scale, complex projects.

Actions that do not require permission under Section 408 include routine operation and maintenance activities as allowed by the operation and maintenance manual of non-federal sponsors, and actions outside of the lands and real property interests identified and acquired for the Corps civil works projects or available to the Corps under navigational servitude.

Permits granted by the Corps under Section 10/401/404 are separate and independent of permission granted under Section 408. In some circumstances, both a Section 408 permission and a Corp Section 10/401/404 will be required.

Authority Details

33 USC 408

Point of Contact: Program Manager
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