

IMPROVEMENTS TO USACE PERMIT PROCESSES (SECTION 408)

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13 February 2019

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OVERVIEW

1. Section 408 updates.
2. When Section 408 permission is required.
3. Key points for the updated Section 408 review process.
4. Combined Section 408/10 reviews.
5. Categorical Permissions.



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WHEN SECTION 408 IS REQUIRED

Section 408 approval is required for alteration, occupation, or use of any USACE Civil Works Project, including:

- Projects not yet constructed or under construction.
- Alterations proposed to submerged lands.
- Alterations that cross over or under a federal navigation channel.
- Alterations to submerged lands in the vicinity of a USACE project (Navigational Servitude – Districts Discretion)

The alteration must not be injurious to the USACE project.



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TYPICAL ACTIONS ALONG THE MISSOURI RIVER THAT **REQUIRE** SECTION 408 APPROVAL



Road or utility crossings
of levees and channels



Terminals and
outfall Structures



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SECTION 408 UPDATES

EC 1165-2-220 has been implemented in order to streamline USACE permit review processes. Phased approach:

- **Phase 1 (31 March 2019)**

- 1) Establish Single Point of Contact for all permitting inquiries.
- 2) Establish “One USACE Decision” procedures (Coordinated Section 408/10/404 Review).
- 3) Linking Section 10/404 and Section 408 Databases.

- **Phase 2 (30 September 2019)**

Finalize SOPs based on lessons learned in the development, modification and testing process.

- **Phase 3 (30 September 2020)**

- 1) Identify remaining challenges and long-term sustainment of initiative.
- 2) Identify solutions to respond to Administration priorities, national initiatives and Executive Orders (as need).



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KEY POINTS FOR 408 REVIEW

- Statement of No Objection (If levee involved)
- USACE Project and Alteration Description
- Technical Analysis and Design
- Environmental and Cultural Resources Compliance

USACE

- Completeness Determination (30-days)
- Decision Determination (90-days)
- Public Notice
- Coordinating review efforts when multiple permits are required (Section 408/10/404)



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COORDINATED SECTION 408/10 (EC 1165-2-220 APPENDIX G)

- Scope of Section 408 and Section 10 must COMPLETELY aligned.
- Normal Section 10 permit review.
- Navigation (Engineering) conducts in-depth technical analysis and provides required conditions to be included in Section 10 Permit.
- No additional Section 408 review required.



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Aligning the processes

Section 10/404 Requirements

- Minimal requirements for completeness
- Most in-depth coordination and revisions occur after the application is “complete”
- Public notice must be issued within 15 days of completeness determination
- **Review is focused on aquatic resources, therefore environmental impacts are a primary decision driver**
- Assumption that applicant will have or obtain the requisite legal interest in the land to do the proposed work

Section 408 Requirements

- More extensive requirements for completeness
- Most in-depth coordination and revisions occur prior to the request being “complete”
- Public notice timing is flexible
- **Review is focused on continued functional operation and maintenance of the Federal project, therefore technical analysis is a primary decision driver**
- Alterations generally occur on lands in which USACE has a legal interest (such as PPA or fee simple)



CATEGORICAL PERMISSIONS

Categorical Permissions are intended to be a flexible tool to use in order to streamline the approval of “categories” of alterations that are similar in nature and that have similar effects to a USACE Civil Works project and impacts to the environment.

Once updated, NWK Categorical permissions will further streamline the Section 408 review process.



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QUESTIONS AND COMMENTS



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CONCLUSION

Streamlined USACE permit review processes to reduce the burden on requesters.

- Single Point of Contact for all USACE permitting inquiries.
- One USACE Decision.
- Simplified internal communications (Database merger).
- Coordinated Section 408/10/404 reviews.
- Completeness Determination (30-days).
- Decision Determination (90-days).



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