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**U.S. Army Corps of Engineers  
Mississippi Valley Division  
New Orleans District**

**District Procedural Review Plan  
Pursuant to 33 USC § 408**

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ENDORSED  
BY:

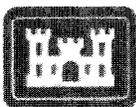
  
John D. Clarkson, P.E.  
USACE, Risk Management Center

17 MAY 2016  
DATE

APPROVED  
BY:

  
Michael C. Wehr  
Major General, USA  
Commanding

27 JUN 16  
DATE



**US Army Corps  
of Engineers**

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### Attachments:

1. Section 408 Coordination Checklist
2. Certification of Agency Technical Review

## 1. Introduction

### a. Purpose of This Procedural Review Plan

This Procedural Review Plan is intended to ensure quality of reviews by the New Orleans District for requests to alter US Army Corps of Engineers (USACE) Levee, Floodwall, Floodgate and Flood Risk Management Channel (Flood Damage Risk Reduction (FDRR)) Projects and Navigation Channel, Harbors, Locks, Jetties, Bridges, and Features (Navigation (NAV)) Projects within the New Orleans District's area of responsibility. This Procedural Review Plan was prepared in accordance with Engineer Circular (EC) 1165-2-216, "Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408." This Procedural Review Plan provides the review guidelines associated with the alteration requests pursuant to 33 USC 408 (Section 408) that are similar in nature and are typically of small size, not complex, and have minimal to no impacts to the USACE civil works project (reference paragraph 7.c.(4)(a) in EC 1165-2-216).

### b. References

The following is a list of references that the New Orleans District will consider in the review of alteration requests covered by this procedural review plan. Other references that are not listed may be considered if needed.

- P.L. 84-99, as amended, flood emergencies; extraordinary wind, wave, or water damage to federally authorized hurricane or shore protective structures; emergency supplies of water; drought; well construction and water transportation
- 33 CFR 208.10, Local flood protection works; maintenance and operation of structures and facilities
- 44 CFR 65.10, Mapping of areas protected by levee systems
- ER 500-1-1, Civil Emergency Management Program, 30 September 2001
- EC 1110-2-6072, Levee Safety Policy and Procedures, 19 November 2014
- ER 1110-2-1806, Earthquake Design and Evaluation of Civil Works Projects, 31 July 1995
- ER 1110-2-1942, Inspection, Monitoring, and Maintenance of Relief Wells, 29 February 1988
- EM 1110-1-1005, Control and Topographic Surveying , 1 January 2007
- EM 1110-1-1804, Geotechnical Investigations, 1 January 2001
- EM 1110-1-1904, Settlement Analysis, 30 September 1990
- EM 1110-2-1418, Channel Stability Assessment for Flood Control Projects, 31 October 1994

- EM 1110-2-1601, Hydraulic Design of Flood Control Channels, 1 July 1991
- ER 1105-2-101, Risk Analysis for Flood Damage Reduction Studies, 3 January 2006
- EM 1110-2-1619, Risk-Based Analysis for Flood Damage Reduction Studies, 1 August 1996
- EM 1110-2-1902, Slope Stability, 31 October 2003
- EM 1110-2-1906, Laboratory Soils Testing, 20 August 1986
- EM 1110-2-1913, Design and Construction of Levees, 30 April 2000
- EM 1110-2-1914, Design, Construction, and Maintenance of Relief Wells, 29 May 1992
- EM 1110-2-2002, Evaluation and Repair of Concrete Structures, 30 June 1995
- EM 1110-2-2007, Structural Design of Concrete-Lined Flood Control Channels, 30 April 1995
- EM 1110-2-2100, Stability Analysis of Concrete Structures, 1 December 2005
- EM 1110-2-2104, Strength Design for Reinforced-Concrete Hydraulic Structures, 20 August 2003
- EM 1110-2-2502, Retaining and Flood Walls, 29 September 1989
- EM 1110-2-2504, Sheet Pile Walls, 31 March 1994
- EM 1110-2-2902, Conduits, Culverts, and Pipes, 31 March 1988
- EC 1110-2-6066, Design of I-Walls, 1 April 2011
- ETL 1110-2-583, Engineering and Design: Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures, 30 April 2014
- ETL 1110-2-575, Evaluation of I-Walls, 1 September 2011
- U.S. Army Corps of Engineers, Policy for Development and Implementation of System-Wide Improvement Frameworks (SWIFs), CECW-HS memorandum, 29 November 2011
- Greater New Orleans (GNO) Hurricane and Storm Damage Risk Reduction System (HSDRRS) Design Guidelines, May 2012
- ER 200-2-2, Procedures for Implementing NEPA, 4 March 1988
- Section 204 of Water Resources Development Act of 1986, Public Law (PL) 99-662
- 33 USC 565, River and Harbor Improvement by Private or Municipal Enterprise
- ER 1110-2-1403, Studies by Coastal, Hydraulic, and Hydrologic Facilities and Others
- ER 1110-2-1404, Engineering and Design - Hydraulic Design of Deep Draft Navigation Projects
- ER 1130-2-520, Project Operations - Navigation and Dredging Operations and Maintenance Policies
- ER 1140-1-211, Non-Department of Defense Reimbursable Services
- ER 1165-2-124, Construction of Harbor and Inland Harbor Projects by Non-Federal Interests
- EM 1110-2-1611, Layout and Design of Shallow-Draft Waterways
- EM 1110-2-1613, Engineering and Design - Hydraulic Design of Deep Draft

Navigation Projects

- EP 1130-2-520, Project Operations - Navigation and Dredging Operations and Maintenance Guidance and Procedures
  - ER 404-1-12, Real Estate Handbook
- c. Review Management Organization (RMO)

The RMO for Section 408 Procedural Review Plan is the Mississippi Valley Division (MVD). The Risk Management Center (RMC) will endorse the review plan and MVD will approve the plan.

d. Description and Information

As stated above, this Procedural Review Plan provides the review guidelines associated with the alteration requests pursuant to 33 USC 408 (Section 408) that are similar in nature and are typically of small size, not complex, and have minimal to no impacts (similar impacts) to the USACE Levee, Floodwall, Floodgate and Flood Risk Management Channel (Flood Damage Risk Reduction (FDRR)) Projects and Navigation Channel, Harbors, Locks, Jetties, Bridges, and Features (Navigation (NAV)) Projects (reference paragraph 7.c.(4)(a) in EC 1165-2-216). Within the New Orleans District area of operation these alterations include examples listed below that may affect FDRR Projects and NAV Projects. Note that the list below is not all inclusive.

- Repair, replacement, or removal of discharge/intake pipelines or utility pipelines;
- Construction of new discharge/intake pipelines or utility pipelines;
- Repair, replacement, or removal of pipelines;
- Construction of new or replacement pipelines;
- Removal or placing of culverts;
- Removal of bridges (road and pedestrian);
- Construction of new or replacement bridges (road and pedestrian);
- Changes to channel riprap to accommodate fish passage or other environmental features;
- Maintenance dredging, bank stabilization or erosional control features;
- Installation of new or replacing bulkheads, docks, mooring dolphins, and barge fleeting operations;
- Replacement of existing low-impact project features using similar design, to also include fences and cattle guards;
- Installation of trails, ramps, lighting, boat docks and other recreational, operational, or decorative features;
- Soil investigations, including borings, piezometers, and inclinometers; and/or,
- Signage and lighting.

It is important to note that if a non-federal sponsor requests any of the alterations

listed above, this does not mean automatic acceptance, or approval, of the alteration request by New Orleans District. All requested and proposed alterations must still be reviewed on a case-by-case basis by the District and follow all EC 1165-2-216 processing procedures. Additionally, an assessment that the alterations do not pose a significant threat to public health and have no life safety impacts to the federally authorized project shall be made by the District Chief of Engineering, as the Engineer-In-Responsible-Charge. This would also include an assessment of drilling requests as described in below.

All drilling requests (including drilling for power poles, instrumentation, third party utilities, relief wells, and geotechnical drilling, etc.) are required to prepare a drilling plan in accordance with ER 1110-1-1807 and are subject to approval by the District Dam Safety Officer (Dams) or Levee Safety Officer (Levees). If a technical review in accordance with ER 1110-1-1807 determines a review is required by the Geotechnical and Materials Community of Practice (G&M CoP) Standing Committee on Drilling and Instrumentation then the district will develop an alteration-specific review plan to be approved by the Division Commander.

\*Note: A decision on a 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements (reference paragraph 7.c.(3) in EC 1165-2-216). A Regulatory permit decision cannot be rendered prior to the decision on the Section 408 request. It is very important for 408 actions to be coordinated with the Regulatory Program office early and throughout the process. An environmental specialist should be assigned to work with the ATR team and coordinate with Regulatory and the requester to determine the appropriate NEPA documentation for the 408 action.

## **2 Review Requirements**

### **a. Level of Review Required**

The review of each alteration request covered by this Procedural Review Plan shall include a district-led Agency Technical Review (ATR), reference paragraph 7.c.(4) in

EC 1165-2-216.

b. Review Purpose

The review of all work products will be in accordance with the guidelines established within this review plan. The purpose of this review is to ensure the proper application of established criteria, regulations, laws, codes, principles and professional practices.

For the purposes of Section 408, the ATR team will make the following determinations:

- 1) Impair the Usefulness of the Project Determination. The objective of this determination is to ensure that the proposed alteration will not limit the ability of the project to function as authorized and will not compromise or change any authorized project conditions, purposes or outputs.
- 2) Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks.
- 3) Legal and Policy Compliance Determination. A determination will be made as to whether the proposed alteration meets all legal and policy requirements.

### **3. Quality Control (QC)**

Quality Control is the responsibility of the sponsor/requester. All submitted documents (including supporting background data, analyses, environmental compliance documents, etc.) shall undergo Quality Control (QC). QC is an internal review process of basic science and engineering work products focused on fulfilling the project quality requirements. Basic quality control tools include seamless review, quality checks and reviews, supervisory reviews, Project Delivery Team (PDT) reviews, etc. The sponsor/requester is responsible for submitting QC documentation.

### **4. District-led Agency Technical Review Team**

The District-led Agency Technical Review Team is comprised of reviewers with the appropriate independence and expertise to conduct a comprehensive review in a manner commensurate with the types of proposed alterations described in Section 1.b of this review plan.

Functional divisions within the New Orleans District, working in conjunction with the

Section 408 Coordinator, will determine whether or not a Section 408 review is required. Projects that are determined not to require a Section 408 review will be sent a letter signed by the Section 408 Coordinator and the appropriate functional division chief stating the findings and the rationale for the decision. Functional division chiefs are:

- Chief, Operations Division,
- Chief, Regional Planning and Environment Planning Division - South,
- Programs and Project Management Division,
- Chief, Real Estate Division,
- Chief, Engineering Division,
- Chief, Construction Division, and/or
- Levee Safety Program Manager.

If a Section 408 review is determined to be required, those identified above will determine the scope and composition of the ATR team for the reviews. ATR team members shall be chosen based on each individual's qualifications and experience with similar Section 408 requests. The summary of Findings prepared during the review will include a list of the reviewer's names, their organization, and a short statement of their credentials and relevant experience. If lacking the appropriate expertise, the District shall supplement their staff through the appropriate Communities of Practice, centers of expertise, or other offices.

The New Orleans District ATR teams shall be comprised of the following:

ATR Lead: The ATR team lead is a professional with experience in reviewing Section 408 alteration requests and conducting ATRs. The ATR lead has the necessary skills and experience to lead a team through the ATR process. The ATR lead may also serve as a reviewer for a specific discipline. In most instances it is anticipated that the Section 408 Coordinator will act as the ATR team leader, however, others may serve in this capacity based on the proposed alteration and the Federal project impacted.

Other potential areas of expertise may include, but are not limited to:

- Technical Disciplines:
  - Geotechnical Engineering;
  - Hydraulics and Hydrology Engineering;
  - Structural Engineering;
  - Civil Engineering;
- Chief, Real Estate;
- Chief, Environmental Planning Branch;
- Chief, Regulatory Branch;

- Chief, Office of Counsel;
- Chief, Emergency Operations;
- Other specific subject matter experts based on the type of USAGE project involved.

A Section 408 Coordination Checklist (Attachment 1) will be completed upon receipt of an alteration request and document the need for a Section 408 review and assignment of ATR disciplines.

Note that a decision on Section 408 request is a federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements (ref., paragraph 7.c.(3) in EC 1165-2-216).

## **5. Execution Plan**

### **a. Review Procedures**

Reviews will be conducted in a fashion which promotes dialogue regarding the quality and adequacy of the required documentation. The ATR team will review the documents provided.

The four key parts of a review comment will normally include:

- 1) The review concern - identify the deficiency or incorrect application of policy, guidance, or procedures.
- 2) The basis for the concern - cite the appropriate law, policy, guidance, or procedure that has not been properly followed.
- 3) The significance of the concern - indicate the importance of the concern with regard to its potential impact on the district's ability to make a decision as to whether to approve or deny the Section 408 request.
- 4) The probable specific action needed to resolve the concern - identify the action(s) that the requester must take to resolve the concern.

In some situations, especially addressing incomplete or unclear information, comments may seek clarification in order to then assess whether further specific concerns may exist. The ATR documentation must include the text of each ATR concern, a brief summary of the pertinent points in any discussion, including any vertical coordination, and the agreed upon resolution.

The review may require the following information, at a minimum, to determine whether the proposed alteration will impair the usefulness of the project or be injurious to the public interest. The detail required is scalable to the complexity of the

proposed alteration.

- 1) Technical Analysis and Design. The minimum level of detail will be 60% complete plans and specifications and supporting analysis.
- 2) Hydrologic and Hydraulics System Performance Analysis. The District will determine if such an analysis is needed and, if so, determine the appropriate scope of analysis based on the proposed alteration's complexity.
- 3) Environmental Compliance. A decision on a Section 408 request is a federal action, and therefore subject to National Environmental Policy Act (NEPA) and other environmental compliance requirements. 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.
- 4) Real Estate Requirements. A list of all real property interests required to support the proposed alteration must be provided by the requester, along with mapping, as applicable, showing existing right-of-way of the USACE project and new right-of-way, if required.
- 5) Discussion of Executive Order 11988 Considerations.
- 6) Operations and Maintenance. Requesters must identify any operations and maintenance requirements needed throughout the life of the proposed alteration.

The District Section 408 Coordinator will ensure that each alteration request is submitted by the requester to the District Commander in writing, with an endorsement from the non-federal sponsor of the USACE project if the requester is not the sponsor. The District Section 408 Coordinator and/or ATR Team Leader will distribute proposed alteration submittals from the requester to the ATR team members for their reviews. The ATR team members will determine whether the proposed alteration would impair the usefulness of the federal project, be injurious to the public interest, or meets legal and policy requirements. ATR team members will provide their comments to the Section 408 Coordinator and/or ATR Team Leader, who will use the comments to determine if the proposed alteration can be approved in accordance with EC 1165-2-216. Upon completion of the ATR, a Completion of Agency Technical Review form (Attachment 2) will be completed. Conflicts in addressing ATR comments will be elevated to the functional chief and MVD for resolution.

Following ATR, the District Section 408 Coordinator and/or the ATR Team Leader will compile a Summary of Findings and (with an appendix of ATR Comments and Resolution).

- For alterations involving levees, floodwalls, floodgates, or flood risk management channel projects, FDRR Projects, the Section 408 Coordinator will obtain the endorsement of the District Levee Safety Program Manager, the District Levee Safety Officer, the

District Counsel, and other District leadership before recommending to the District Commander that the proposed alteration be approved or denied.

- For alterations involving navigation channels, harbors, locks, jetties, bridges, and features, NAV Projects, the District 408 Coordinator will obtain the endorsement of the Operations Manager, the District Counsel, and other District leadership before recommending to the District Commander that the proposed alteration be approved or denied.

After the District Commander's decision, the District Section 408 Coordinator will file electronic and hard copies of all documentation for the Section 408 request (request letter, request submittals, ATR review, Summary of Findings, notification letter) under the District's Operations Division, Completed Works. A copy of the Summary of Findings (with an appendix of ATR Comments and Resolution) will be sent to the MVD Section 408 Coordinator (and when appropriate, the MVD Dam or Levee Safety Program Manager and the MVD Dam/Levee Safety Officer) for information purposes.

#### b. Public Comment

To ensure that this Procedural Review Plan approach is responsive to the wide array of stakeholders and customers, both within and outside the Federal Government, this Review Plan will be published on the district's public internet site following approval by MVD at:

<http://www.mvn.usace.army.mil/About/Mission/Section408.aspx>.

This is not a formal comment period and there is no set timeframe for the opportunity for public comment. If and when comments are received, the Section 408 Coordinator will consider them and decide if revisions to this review plan are necessary. The public is invited to review and submit comments on the plan as described on the web site.

#### c. Review Schedule

Review schedules are commensurate with the scale and complexity of the review. Simple Section 408 reviews (minimal to no impacts and minimal team member involvement) should be able to be completed in a minimal amount of time. The actual review time will depend on the completeness of the information provided by the requester and the availability of district (or others) resources. The District Section 408 Coordinator will work with the ATR team to achieve timely reviews and will maintain contact with the requester and/or the non-federal sponsor to keep them informed about the review timeline.

d. Review Cost

Reviews will be funded with the New Orleans District's Inspection of Completed Works (ICW) funds for FDRR projects and/or Operations Division's, Operations and Maintenance funds depending on the nature of the Alteration (i.e., for alterations impacting FDRR Projects ICW funds are used, for projects impacting the NAV Projects operations navigation business line funds are used).

**6. Review Plan Points of Contact**

<b>Name/Title</b>	<b>Organization</b>	<b>Email</b>
Amy Powell District Section 408 Coordinator	CEMVN-OD-W	<a href="mailto:Amy.e.powell@usace.army.mil">Amy.e.powell@usace.army.mil</a>
RMC Review Manager	CEIWR-RMC	304-399-5217 <a href="mailto:rmc.review@usace.army.mil">rmc.review@usace.army.mil</a>

ATTACHMENT 1 - SECTION 408 COORDINATION CHECKLIST

Section 408 Project Name: \_\_\_\_\_

ATR Lead: \_\_\_\_\_

Discipline	Person Contacted	Review Needed (Y/N)	Explanation
Hydraulics and Hydrology			
Geotechnical			
Civil			
Structural			
Levee Safety			
Environmental			
Regulatory			
Real Estate			
Counsel			
Subject Matter Expert 1 (as required)			
Subject Matter Expert 2 (as required)			

ATTACHMENT 2

COMPLETION OF AGENCY TECHNICAL REVIEW

The Agency Technical Review (ATR) has been completed for the <short description of proposed alteration> for <project name and location>. The ATR was conducted as defined in the Procedural Review Plan to comply with the requirements of EC 1165-2-216. During the ATR, compliance with established policy principles and procedures and legal requirements was verified. This included the determination whether the proposed alteration would impair the usefulness of the federal project or was injurious to the public interest. All comments resulting from the ATR have been resolved.

SIGNATURE

\_\_\_\_\_  
Name  
ATR Team Leader  
Office Symbol

\_\_\_\_\_  
Date

SIGNATURE

\_\_\_\_\_  
Name  
District Section 408  
Coordinator  
Office Symbol

\_\_\_\_\_  
Date

SIGNATURE

\_\_\_\_\_  
(Add any additional signatures as appropriate) Title  
Office Symbol

\_\_\_\_\_  
Date