



**US Army Corps
of Engineers®**
St. Paul District

Information Paper

Project Alteration Reviews: Section 408



Construction of Corps approved major levee modifications to the Oslo, Minnesota, levee project was completed in 2013.

Contact

Michelle Prosser, Project Manager
(651) 290-5373
michelle.e.prosser@usace.army.mil

Description

Section 14 of the Rivers and Harbors Act of 1899 authorizes the Secretary of the Army to grant permission for alterations to existing U.S. Army Corps of Engineers projects under certain circumstances. The authority is codified in 33 U.S.C. Section 408. Authority to approve alterations has been delegated to the District Commander in most cases, although certain alterations require approval from the Director of Civil Works at the Corps' headquarters (HQUSACE). The Corps may grant permission for the alteration or permanent occupation or use of any of its public works when, in the Corps' judgment, the occupation or use will not be injurious to the public interest and will not impair the usefulness of the federal works.

Section 408 provisions apply to works that were built by the Corps and are locally maintained, such as local flood control projects. They also apply to works that are operated and maintained by the Corps, such as locks and dams. Proposals submitted for Section 408 review and approval undergo a rigorous engineering, policy and environmental review by the Corps and, if required, independent external peer review. As a federal action,

the environmental review must meet the requirements of the National Environmental Policy Act.

Examples of modifications that might be proposed at a Corps lock or dam are hydropower generating facilities and fish management structures. Examples of modifications proposed at local flood control projects are significant levee or floodwall alterations to address levee accreditation or change in flood elevations. Nationwide efforts by the Federal Emergency Management Agency (FEMA) to modernize mapping of its floodplain designations have resulted in an increase in the number of requests for Section 408 review by non-federal sponsors for many older flood risk management projects.

Engineering Circular 1165-2-220 provides the policy and procedural guidance for processing requests under Section 408. The circular was updated in 2018 and includes requirements for the Corps to conduct reviews within certain timelines. The circular is located here:

https://www.publications.usace.army.mil/Portals/76/Publications/EngineerCirculars/EC_1165-2-220.pdf?ver=2018-09-07-115729-890

Authority

Section 14 of the Rivers and Harbors Act of 1899.

Funding

Funding for Section 408 reviews is managed through HQUSACE. Requesters may choose to individually fund Section 408 reviews in absence of federal funding though execution of an agreement pursuant to Sections 214 or 1156 of the Water Resources Development Act.