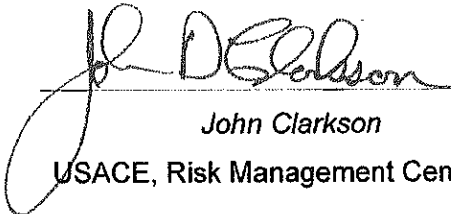


**U.S. Army Corps of Engineers
North Atlantic Division
Philadelphia District**

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

ENDORSED
BY:


John Clarkson
USACE, Risk Management Center

7 Oct 2015

DATE

APPROVED
BY:

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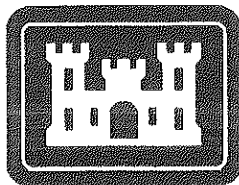
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1. Introduction

a. Purpose of This Procedural Review Plan

This Procedural Review Plan is intended to ensure the quality of reviews by the Philadelphia District for requests to alter US Army Corps of Engineers (USACE) civil works projects within the Philadelphia 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" dated 31 July 2014. This Procedural Review Plan provides the review guidelines associated with alteration requests pursuant to 33 USC 408 (Section 408) that are similar in nature 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).

This Procedural Review Plan covers requests for low-impact alterations to all Authorized USACE Civil Works Projects. Examples of low-impact alterations could be:

- Repair, replacement, or removal of discharge pipes or utility lines
- Construction of new discharge pipes or utility lines
- Removal 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
- Replacement of existing low-impact project features using similar design
- Installation of trails, ramps, lighting, boat docks and other recreational, operational, or decorative features

The determination of whether or not an alteration is low-impact will depend upon the scope of the alteration, i.e., any alteration where potential hazards do not pose a significant threat to human life as determined by the District Chief of Engineering. For Section 408 requests that may require HQ USACE approval, the District will develop an alteration-specific review plan for that request."

b. Review Management Organization (RMO)

The Review Management Organization (RMO) is responsible for managing the overall peer review effort described in this review plan. The RMO for Section 408 Procedural

Review Plans is the Risk Management Center (RMC). The RMC will endorse the review plan and the North Atlantic Division will approve the plan.

c. References

The following is a list of references that the Philadelphia 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.

- a) 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
- b) 33 CFR 208.10, Local flood protection works; maintenance and operation of structures and facilities
- c) 44 CFR 65.10, Mapping of areas protected by levee systems
- d) ER 500-1-1, Civil Emergency Management Program, 30 September 2001
- e) EC 1110-2-6072, Levee Safety Policy and Procedures, 19 November 2014
- f) ER 1110-2-1806, Earthquake Design and Evaluation of Civil Works Projects, 31 July 1995
- g) ER 1110-2-1942, Inspection, Monitoring, and Maintenance of Relief Wells, 29 February 1988
- h) EM 1110-1-1005, Control and Topographic Surveying, 1 January 2007
- i) EM 1110-1-1804, Geotechnical Investigations, 1 January 2001
- j) EM 1110-1-1904, Settlement Analysis, 30 September 1990
- k) EM 1110-2-1418, Channel Stability Assessment for Flood Control Projects, 31 October 1994
- m) EM 1110-2-1601, Hydraulic Design of Flood Control Channels, 1 July 1991
- n) ER 1105-2-101, Risk Analysis for Flood Damage Reduction Studies, 3 January 2006
- o) EM 1110-2-1619, Risk-Based Analysis for Flood Damage Reduction Studies, 1 August 1996
- p) EM 1110-2-1902, Slope Stability, 31 October 2003
- q) EM 1110-2-1906, Laboratory Soils Testing, 20 August 1986
- r) EM 1110-2-1913, Design and Construction of Levees, 30 April 2000
- s) EM 1110-2-1914, Design, Construction, and Maintenance of Relief Wells, 29 May 1992
- t) EM 1110-2-2002, Evaluation and Repair of Concrete Structures, 30 June 1995
- u) EM 1110-2-2007, Structural Design of Concrete-Lined Flood Control Channels, 30 April 1995
- v) EM 1110-2-2100, Stability Analysis of Concrete Structures, 1 December 2005

- w) EM 1110-2-2104, Strength Design for Reinforced-Concrete Hydraulic Structures, 20 August 2003
- x) EM 1110-2-2502, Retaining and Flood Walls, 29 September 1989
- y) EM 1110-2-2504, Sheet Pile Walls, 31 March 1994
- z) EM 1110-2-2902, Conduits, Culverts, and Pipes, 31 March 1988
- aa) EC 1110-2-6066, Design of I-Walls, 1 April 2011
- bb) 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
- cc) ETL 1110-2-575, Evaluation of I-Walls, 1 September 2011
- dd) U.S. Army Corps of Engineers, Policy for Development and Implementation of System-Wide Improvement Frameworks (SWIFs), CECW-HS memorandum, 29 November 2011

d. Description and Information

This Procedural Review Plan covers alterations that are similar in nature, routine, and have low impact, proposed by a requestor (i.e. private, public, tribal or other federal entities) within the lands and real property interests identified and acquired for a USACE project and to lands available for USACE projects under the navigation servitude, within the jurisdiction of the Philadelphia District.

2. Review Requirements

a. Level of Review Required

The review of each alteration request covered by this Procedural Review Plan shall include at a minimum, a District-led Agency Technical Review (ATR), reference paragraph 7.c.(4)(b) in EC 1165-2-216. Certain alterations outlined in paragraph 6.t of EC 1165-2-216 will require HQUSACE review and will follow guidance of paragraph 7.c.(7). A separate review plan will be prepared for those type projects.

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) A Legal Compliance Determination. A determination will be made as to whether the proposal meets all legal requirements and will be made by the Office of Counsel.
- 4) A Policy Compliance Determination will be made by the appropriate business line manager overseeing the 408 review.

3. 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.

The following business line contacts at the District, as appropriate, working in concert with the District 408 Coordinator, will determine whether or not Section 408 review is necessary. Projects that are deemed to not require a Section 408 (most likely due to routine activities such as Operation & Maintenance) will be sent a letter signed by the Section 408 Coordinator and the appropriate business line project manager stating the findings and rationale for the decision. A sample decision letter stating that no Section 408 is required due to normal Operation & Maintenance is included as Attachment 1.

Dam Safety Program Manager (CENAP-EC-EG)
Levee Safety Program Manager (CENAP-EC-EG)
Dam Operations Program Manager (CENAP-OP)
Navigation Projects and associated features (CENAP-OP)
Environmental Resource Branch (CENAP-PL-E)
Coastal Projects (Chief Civil Works Branch, PPM, CENAP-DP-CW)
Assistant Chief Planning Division (CENAP-PL)
Engineering Branch (CENAP-EC-E)
Structural Branch (CENAP-EC-EM)
District Section 408 Coordinator (CENAP-EC-EG)

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 appropriate Communities of Practice, centers of expertise, or other offices.

The Philadelphia District ATR teams shall be comprised of the following:

ATR Lead: 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.

Other potential areas of expertise may include, but are not limited to the following. The persons listed below shall be contacted to determine who in that group will actually be assigned to the ATR team.

- Technical Disciplines:
 - Geotechnical (Chief, CENAP-EC-EG),
 - H&H including EO 11988 compliance (Chief, CENAP-EC-EH),
 - Structural (Chief, CENAP-EC-EM),
 - Risk Assessments (CENAP-EC-EG)
- Real Estate (Chief, CENAB-RE)
- Environmental & Public Interest Determination (Chief, CENAP-PL-E)
- Regulatory* (Chief, CENAP-OP-R)
- Counsel (CENAP-OC)
- Other specific subject matter experts based on the type of USACE project involve, such as dam safety, levee safety, hydropower, and/or navigation.
- The District Section 408 Coordinator may also be an appropriate lead and/or team member.

*Note: A decision on a Section 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). NEPA compliance may often be covered through Regulatory Division's efforts on a corresponding Section 10/404/103 permit action in conjunction with the Section 408 request. For example, this would occur for proposals involving utility line crossings, boat docks, bulkheads, revetments, dredging, and other similar activities in and adjacent to Federal navigation

projects. An Environmental specialist from Environmental Resource Branch, Planning Division will be assigned to work with the ATR team and coordinate with Regulatory and the requestor to determine the appropriate scale of NEPA documentation required for the 408 action.

4. Execution Plan

a. Review Procedures

Reviews will be conducted in a manner that promotes dialogue regarding the quality and adequacy of the required documentation. The ATR team will review the documents provided by the requestor. In general, this review plan will cover the District reviews that are similar in nature, have similar impacts, and will be approved by the District Commander. Any Section 408 request requiring HQUSACE approval will follow the steps as outlined in EC 1165-2-216.

The ATR review will include comments that address the following four key parts:

- 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 requestor 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 alteration's complexity.
3. Environmental Compliance. A decision on a Section 408 request is a federal action, and therefore subject to NEPA and other environmental compliance requirements. The requestor 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 requestor.
5. Discussion of EO 11988 Considerations.
6. Requester Review Plan Requirement. If a Type II Independent External Peer Review is required the requestor must develop the review plan and be approved by the Risk Management Center.
7. Operations and Maintenance. Requesters must identify any operations and maintenance requirements needed throughout the life of the proposed alteration.

Below is the process that the District will typically follow to conduct the ATR of the Section 408 request.

1. Requesters shall be strongly encouraged to submit all written Section 408 requests to the District Commander. Some requests will inevitably come through other channels (e.g. one of the business line contacts, Regulatory, Real Estate, etc.). It is important that all Section 408 requests be shared with the District 408 Coordinator so that they can be logged and appropriately tracked. A letter of endorsement from the non-Federal sponsor(s) of the project shall also be provided by the requestor, if applicable.
2. The business line contact, identified in Section 3 above, working with the District 408 Coordinator, will determine the composition of the ATR review team and request the team members through the respective office contacts also listed in Section 3. The attached checklist (Attachment 2) will be used to document what review components will be required.
3. If it is determined that a Section 408 request will need approval from HQUSACE (e.g. Type II IEPR or EIS required, change in project purpose, private hydropower development, etc. reference paragraph 6.t. in EC 1165-2-216) then the Summary of Findings will be developed with the ATR team and submitted to the Division Commander for approval.
4. The ATR leader for the review will have labor codes established in CEFMS for the reviewers. The ATR leader, working with the appropriate team and the requestor, will obtain all necessary documentation to conduct the review. The

ATR team will make comments on the review documentation. DrChecks can be used to document the Section 408 ATR review, but it is not required. The ATR lead will make the decision whether or not to use DrChecks.

5. The business line contact will prepare the Summary of Findings (SOF) and letters to the requestor in accordance with EC 1165-2-216 7.c. (5), Summary of Findings, for the District Commander's signature. An ATR certification (see Attachment 3) will be attached. The SOF will need to include a Policy Compliance Certification (provided by the business line contact), a Certification of Legal Sufficiency from the District Office of Counsel and, if applicable, a Certification by the Chief of Real Estate that the real estate documentation is adequate.
6. When the Section 408 review is complete (e.g. rejection, or approval at the District or HQUSACE) the business line contact will let the District Section 408 Coordinator know the result of the review, the date the requestor was notified, and the total amount of funds spent on the effort. All documentation for the Section 408 request (e.g. request letter, P&S, ATR results, notification letters) will be kept in a file that is managed by the appropriate business line contact
7. Section 408 SOFs that require final decision by the Director of Civil Works at HQUSACE (see Section 6.t of EC 1165-2-216) will be forwarded to Division for further review and action.

b. Public Comment

To ensure that the peer review 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 the North Atlantic Division at

<http://www.nap.usace.army.mil/Missions/CivilWorksReviewPlans.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 PDT will consider them and decide if revisions to the 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 (little impact and minimal team member involvement) should be able to be completed within a few weeks time or less. More complex reviews may require several months of review time depending on the completeness of the information provided by the requestor and the availability of district (or others) resources

to complete the review. Once a Section 408 request submittals are deemed complete, the business line contact, working with the ATR team, will develop the review schedule and communicate that schedule to the requestor and the District Section 408 Coordinator.

d. Review Cost

Funding of Section 408 reviews will be provided by applicable project specific appropriated funding per paragraph 8 of EC 1165-2-216.

5. Review Plan Points of Contact

Name/Title	Organization	Email/Phone
Robert Phillips, District Section 408 Coordinator	CENAP-EC-EG	Robert.W.Phillips@usace.army.mil 215-656-6682
Daniel Kelly, Chief Geotechnical Section	CENAP-EC-EG	Daniel.J.Kelly@usace.army.mil 215-656-6889
William Wilcox, Office of Counsel	CENAP-OC	William.A.Wilcox@usace.army.mil 215-656-6529
Jerry Pasquale, Chief Environmental Resource Branch	CENAP-PL-E	Jerry.J.Pasquale@usace.army.mil 215-656-6560
Michael Landis, Assistant Chief, Operations Division	CENAP-OP	Michael.A.Landis@usace.army.mil 215-656-6587
Frank Master, Chief Civil Works Programs Branch	CENAP-DP-CW	Frank.M.Master@usace.army.mil 215-656-6590
Jose Alvarez, Chief Engineering Branch	CENAP-EC-E	Jose.R.Alvarez@usace.army.mil 215-656-6634
RMC Review Manager Organization		rmc.review@usace.army.mil

Attachment 1 - Section 408 Operations & Maintenance Determination Letter

<Date>

<Mr/Ms. <Full name of Requestor>

<Title of Requestor>

<Requestor Address>

<City State & Zip Code>

Dear Mr./Mrs <Last name of Requestor>:

The Philadelphia District of the U.S. Army Corps of Engineers (USACE) has determined that your project to <short description of proposed alteration> for <project name and location> is considered Routine Operation and Maintenance as outlined by EC 1165-2-216, Requests to Alter US Army Corps of Engineers Civil Works Projects, Section 6, part f. As a consequence, a determination pursuant to Section 14 of the Rivers and Harbors Act of 1899, 33 USC 408 (Section 408) is not required. Should the scope of the project increase, a Section 408 request could subsequently be required.

For any questions regarding this evaluation, please contact the Philadelphia District Section 408 Coordinator, <name of Section 408 Coordinator and contact information>.

(signature)

(full name, typed)

Section 408 Coordinator

DATE

(signature)

(full name, typed)

Project Manager

DATE

Attachment 2 - Section 408 Coordination Checklist

Section 408 Project Name: _____

ATR Lead: _____

Discipline	Person Contacted	Review Needed (Y or N)	Explanation
Environmental Resources			
H&H			
Structural			
Risk Assessment			
Geotechnical			
Real Estate			
Regulatory			
Office of Counsel			
SME 1 (as required)			
SME 2 (as required)			

ATTACHMENT 3

CERTIFICATION 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

Name
Chief, Environmental
Resource Branch
Office Symbol

Date

SIGNATURE

Name
Project Manager
Office Symbol

Date

SIGNATURE

Name
Chief, Engineering Design
Branch
Office Symbol

Date

SIGNATURE

(Add any additional
signatures as appropriate)
Title
Office Symbol

Date