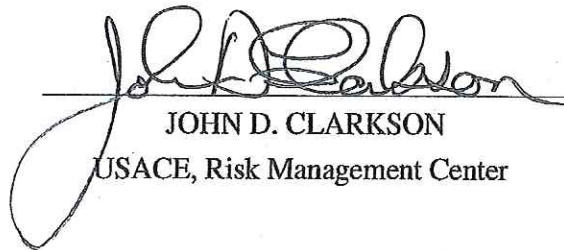


**U.S. Army Corps of Engineers
North Atlantic Division
New England District**

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

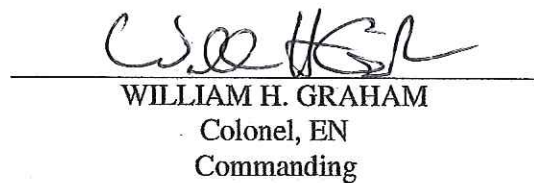
ENDORSED
BY:



JOHN D. CLARKSON
USACE, Risk Management Center

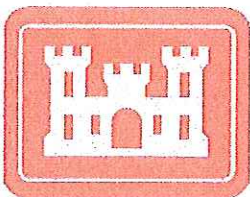
10 APR 2015
DATE

APPROVED
BY:



WILLIAM H. GRAHAM
Colonel, EN
Commanding

5 JUN 15
DATE



**US Army Corps
of Engineers®**

Contents

- 1. Introduction..... 1**
 - a. Purpose of This Procedural Review Plan 1
 - b. Description and Information..... 1
- 2. Review Requirements 1**
 - a. Level of Review Required..... 1
 - b. Review Purpose 1
- 3. District-led Agency Technical Review Team 2**
- 4. Execution Plan 3**
 - a. Review Procedures 3
 - b. Review Schedule..... 6
 - c. Review Cost 6
- 5. Review Plan Points of Contact 6**

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 the quality of reviews by the New England District for requests to alter US Army Corps of Engineers (USACE) civil works projects within the New England 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 alteration requests pursuant to 33 USC 408 (Section 408) that are similar in nature and have similar impacts (reference paragraph 7.c.(4)(a) in EC 1165-2-216).

b. Description and Information

This Procedural Review Plan covers alterations that are similar in nature, routine, and that have a low impact (e.g. navigation project changes, utility crossings, recreation modifications, etc.) that are 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 New England District. At this time, there are no plans to establish Categorical Permissions for any activities.

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)(b) 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 to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks.
- (3) A Legal Compliance Determination 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 (ATR) Team

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

The following business line contacts at the District, working in concert with the District 408 Coordinator, will determine if the Section 408 review is necessary. If required, the following personnel will determine the scope and composition of the ATR team for the reviews.

Levee Safety Program Manager – Inspection of Completed Works Program projects
Operations Environmental Compliance Coordinator – Corps Managed Lands
Water Resources Planning Section Chief - Non Federal Hydropower Development at USACE Facilities (includes current District Section 408 Coordinator duties)
Navigation Section Chief – Navigation Projects and associated features (e.g. jetties)
Ecosystem Restoration Program Manager – Ecosystem Restoration Projects

The ATR team members shall be chosen based on individual 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 New England 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 process. The ATR lead may also serve as a reviewer for a specific discipline.

Other potential areas of expertise may include the following. The offices listed below shall be contacted to determine who will be assigned to the ATR team.

- Technical Disciplines:
 - Geotechnical (Geotechnical Section Chief),
 - H&H including EO 11988 compliance (Water Management Section Chief),
 - Structural (General Engineering Section Chief),
 - Risk Assessments (Dam Safety Program Manager)
- Real Estate (Chief of Real Estate)
- Environmental & Public Interest Determination (Environmental Resources Section Chief)
- Regulatory – determine if a Section 10/104/103 permit is needed in conjunction with the Section 408 request (the appropriate state Regulatory Branch Chief)
- Counsel (Chief District Counsel)
- Other specific subject matter experts based on the type of USACE project involved, such as dam safety, levee safety, hydropower, or navigation.
- The District Section 408 Coordinator may also be an appropriate lead 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). An Environmental Specialist from Engineering/Planning Division will be assigned to work with the ATR team, coordinating with Regulatory as needed, 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. 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 requests requiring HQ USACE approval will require its own Review Plan (RP) and follow the steps outlined in EC 1165-2-216.

The ATR review will include comments that address the following:

- (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 approve or deny the Section 408 request.
- (4) The probable specific action needed to resolve the concern – identify the action the requester must take to resolve the concern.

In situations addressing incomplete or unclear information, reviewers may seek clarification to 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 vertical coordination, and the agreed resolution.

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

- (1) Technical Analysis and Design. The minimum level of detail will be 60 percent with complete plans and specifications, and supporting analysis
- (2) Hydrologic and Hydraulics System Performance Analysis. The District will determine if an analysis is needed and 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 subject to NEPA and other environmental compliance requirements. The requestor is responsible for providing all information 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 requester must develop the review plan and have it approved by the Risk Management Center.
- (7) Operations and Maintenance. Requesters must identify operations and maintenance requirements needed throughout the life of the proposed alteration.

The District will use the following to conduct the ATR of the Section 408 request.

- (1) Requesters are 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 and logged and appropriately tracked. A letter of endorsement from the non-Federal sponsor of the project will be provided by the requestor, if applicable.
- (2) The business line contact, identified in Section 3, working with the District 408 Coordinator, will determine the composition of the ATR team and request the required team members. Attachment 1 checklist will be used to document what review components are required. A copy of this Procedural Plan will be provided to the ATR Team so they understand their roles and responsibilities and the applicability of this Procedural Plan.
- (3) If a Section 408 request needs 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) a separate RP will be implemented and the Summary of Findings developed with the ATR team and submitted to the Division Commander for approval.
- (4) The ATR leader for the review will establish labor codes 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 may be used to document the Section 408 ATR review.
- (5) The business line contact will prepare the Summary of Findings (SOF) and letters to the requestor, in accordance with EC 1165-2-216 (pages 14 and 15) for the District Commander's signature. An ATR certification (Attachment 2) will be attached. The SOF will 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 stating 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) are kept in a file managed by the appropriate business line contact

(7) Section 408 SOFs, which require a final decision by the Director of Civil Works at HQUSACE (see page 7 of EC 1165-2-216), will be forwarded to Division for further review and action.

b. 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 completed within a few weeks. More complex reviews may require several months to review depending on the completeness of the information provided by the requestor and the availability of district (or other) resources to complete the review. Once Section 408 request submittals are deemed complete, the business line contact, working with the ATR team, will develop the review schedule and communicate that information to the requestor and the District Section 408 Coordinator.

c. Review Cost

Funding of Section 408 reviews is provided by the office managing the review (e.g. FRM projects use Operations funds, dam modifications use dam safety funds, levees use ICW funds, coordinator and ecosystem reviews use EP overhead, navigation use PCS funds, etc.).

5. Review Plan Points of Contact

Name/Title	Organization	Email/Phone
Christopher Hatfield - District Section 408 Coordinator	CENAE-EP-PS	Christopher.I.hatfield@usace.army.mil 978-318-8520
Frank Fedele & Kimberly Russell	CENAE-OD	Francis.J.Fedele@usace.army.mil 978-318-8194 Kimberly.A.Russell@usace.army.mil 978-318-8779
Scott Michalak & Michael Bachand	CENAE-EP-W	Scott.c.michalak@usace.army.mil 978-318-8350 Michael.I.bachand@usace.army.mil 978-318-8075
Edward O'Donnell	CENAE-PP-P-N	Edward.g.odonnell@usace.army.mil 978-318-8375
Wendy Gendron	CENAE-EP-PP	Wendy.c.gendron@usace.army.mil 978-318-8603

Attachment 1 - Section 408 Coordination Checklist

Section 408 Project Name: _____

ATR Lead: _____

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

ATTACHMENT 2

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

(Add any additional signatures as appropriate)

Title

Office Symbol

Date