



US Army Corps
of Engineers

SECTION 408 PROCESS GUIDE



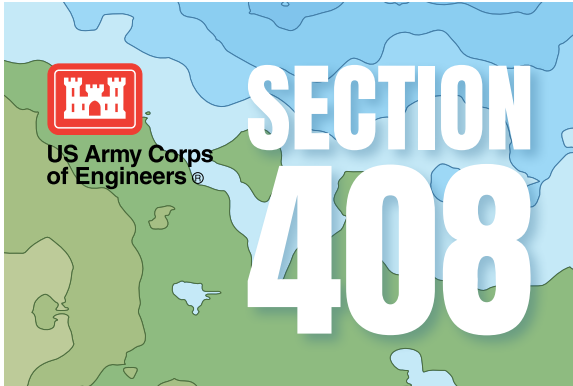
US Army Corps
of Engineers®

SECTION 408

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Section 408 Coordinator: Your Guide

Every USACE District has a Section 408 Coordinator. This person reviews any alterations your proposal makes to a USACE project. They are there to help and guide you when you're writing your request.

The Engineer Circular: The Rules

USACE district Section 408 Coordinators follow the guidelines provided by USACE Policy and Procedural Guidance for Processing Requests to Alter U.S. Army Corps of Engineers Civil Works Projects Pursuant To 33 USC 408 (Engineer Circular 1165-2-220).

WHAT IS SECTION 408?

The U.S. Army Corps of Engineers (USACE) Section 408 program provides permission to allow people, towns, or businesses to alter or impact a USACE project, like a dam, levee, or waterway. Before any changes can be made, the Section 408 program checks to make sure the change won't harm the project or the public. This guide will walk you through the journey of developing your project and getting permission to construct it. You can find more information about the Section 408 program at <https://www.usace.army.mil/Missions/Civil-Works/Section408/>.

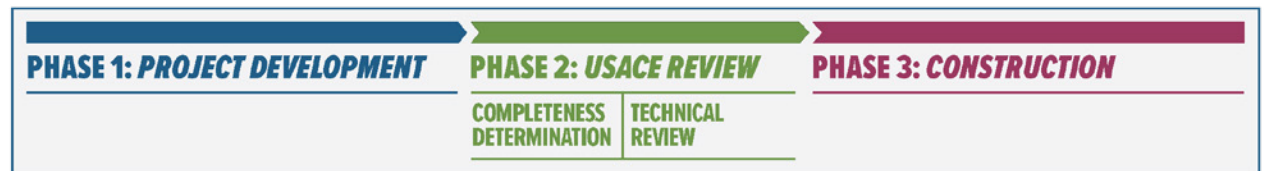


Examples of activities that need USACE Section 408 permission include:

- Building a bridge across a navigable waterway.
- Building docks in or near a navigation channel.
- Building a house or a swimming pool in a backyard within a levee's easement.
- Raising a levee.
- Add a hydropower facility to a USACE dam.

Phases of the Section 408 process

Your Section 408 permission request will pass through three phases: project development, USACE review, and construction. You will spend most of your time developing your project and collecting information. Following a guide like this one will help you make the most of your project development process so that the review phase will go more smoothly.



Things to Note

COMMUNICATION IS KEY. Ask questions and stay in touch even after your request has been filed. Communication will solve many problems before they start.

408 REQUESTS VARY IN SCOPE AND COMPLEXITY. Your requirements may not match this guide 100%.

TIMING IS EVERYTHING. Integrate your 408 request journey into your broader construction project plan.

USE YOUR PRE-APPLICATION MEETING. Update your 408 permission request with feedback from your pre-application meeting to avoid delays later.

DOUBLE-CHECK YOUR REQUEST to ensure you have all the information needed to fully review your proposed project.

PROJECT DEVELOPMENT: YOUR JOURNEY STARTS HERE

How to determine if you need a Section 408 permission

Start by thinking about the goal of your proposal. Identify what you are trying to accomplish, what you need to build to make it happen, and how it may affect a USACE project.

How do you tell if your request may affect a USACE project?



- If you are working on or near a levee or dam, you can use the National Levee Database or the National Inventory of Dams to determine whether it is a USACE project.
 - The National Levee Database is located online at:
<https://levees.sec.usace.army.mil/>
 - The National Inventory of Dams is located online at:
<https://nid.sec.usace.army.mil/>
- You should contact your USACE district directly if you are working near infrastructure such as navigation channels, seawalls, dams, or levees. You can find your district's contact information by the project location's address at <https://www.usace.army.mil/locations.aspx>.
- If you are working in waters of the U.S., including wetlands and navigable waters, you may also need a federal Clean Water Act Section 404 or Section 10 of the River and Harbors Act of 1899 permit. For more information about permit requirements, visit <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>



What is a non-federal sponsor?

A non-federal sponsor is a local or state agency responsible for the operations and maintenance of a USACE project or navigable waterway. Typical non-federal sponsors include a local government, levee board, port authority, or a state government.

Contact the USACE project’s non-federal sponsor to discuss your Section 408 permission request and get a Statement of No Objection.

You will need to speak with the non-federal sponsor to explain your alterations. **You will need a statement of no objection from the non-federal sponsor of the USACE project.**

- A statement of no objection is required from the non-federal sponsor to document that the non-federal sponsor is aware of the request and does not object to USACE reviewing your request.
- Find your USACE project’s non-federal sponsor by contacting your local USACE District. There are a variety of places to look to determine if it is a federal project and to determine who the non-federal sponsor is, if it is a USACE project. You can also check your local **USACE district website** to see if they have a map, visit the **National Levee Database** or the **National Inventory of Dams**, or even check with your local property appraiser’s website or tax assessor’s office.
- Inform your Section 408 Coordinator if you cannot identify or reach the non-federal sponsor of the USACE project. Another entity may now have responsibility for the USACE project.
- Even though some non-federal sponsors have limited ability to respond to your requests, they should still be engaged. Non-federal sponsors may choose not to play an active role in pre-application meetings.
- Ensure that the non-federal sponsor understands your Section 408 permission request. They may ask you to make changes to protect how the project functions. This is a normal part of working with non-federal sponsors and may proactively address questions you may encounter later during reviews.
- You do not need a Statement of No Objection if you are a non-federal sponsor of the project you are working on.



Who should consider a pre-application meeting?

THE SHORT ANSWER: *Everyone applying for a Section 408 permission.*

THE LONG ANSWER: *Pre-application meetings save requesters time and resources by giving them a chance to discuss their project directly with the non-federal sponsor and the Section 408 Coordinator.*

Contact your USACE district and consider a pre-application meeting

Once you have firmed up the design for your 408 permission request, consider a pre-application meeting with your Section 408 Coordinator and the non-federal sponsor. Pre-application meetings help you get feedback on your design, ask questions, establish communication, build relationships, and align your schedule with your Section 408 Coordinator. Pre-application meetings are not required but can be helpful.

- Before setting up your pre-application meeting, prepare to discuss your request's purpose, scope, and design.
- The focus of a pre-application meeting should depend on your request. However, all meetings should include introductions, an opportunity to describe the proposed project, a walk-through of the Section 408 process, a discussion of steps needed to complete your request, and an opportunity to ask questions.
- Pre-application meetings provide an opportunity to get feedback on your designs and ask questions about the Section 408 requirements specific to your request.
- The contact information for your district can be found by entering your project's location at <https://www.usace.army.mil/locations.aspx>.
- Consider inviting the USACE project's non-federal sponsor and key representatives from your design and construction teams to your pre-application meetings.
- See the pre-application FAQ for more information.



Environmental impact is one of many considerations taken when you submit your Section 408 request.

Preparing your Section 408 request

Following your pre-application meeting, it's time to assemble your Section 408 request. Your goal is to demonstrate that your request will not harm the federal project or the public. USACE determines this by reviewing your Section 408 request's contents. The technical details required depend on the complexity of your request. **You should consult your Section 408 Coordinator to understand the information they need.**

How might your Section 408 permission request impact the usefulness of a USACE project?

- Requests might affect the usefulness of a USACE project in multiple ways, such as impacting the stability of the levee or reducing capacity of the navigation channel.
- Your Section 408 Coordinator will examine how your proposal might affect the USACE project's characteristics to ensure it will not impact its ability to function.
- USACE cannot grant permissions that prevent its projects from fulfilling their purpose.

How might your Section 408 permission request be injurious to the public interest?

- Requests are reviewed to ensure that they do not harm the interests of the community as a whole. USACE considers potential benefits and harmful impacts of your proposed project.
- Some of the factors USACE looks at when determining whether an alteration is injurious to the public interest include impacts to:
 - wildlife, habitat, and the environment.
 - the economy.
 - nearby historical, cultural, and archeological sites.
 - drinking water quality and quantity.
 - flood hazards or floodplains.
 - the navigability of nearby waters.
 - shore erosion or accretion.
 - recreational resources such as lakes.
- In addition to your request, USACE integrates feedback from local stakeholders, tribes, state and federal agencies, and the public.

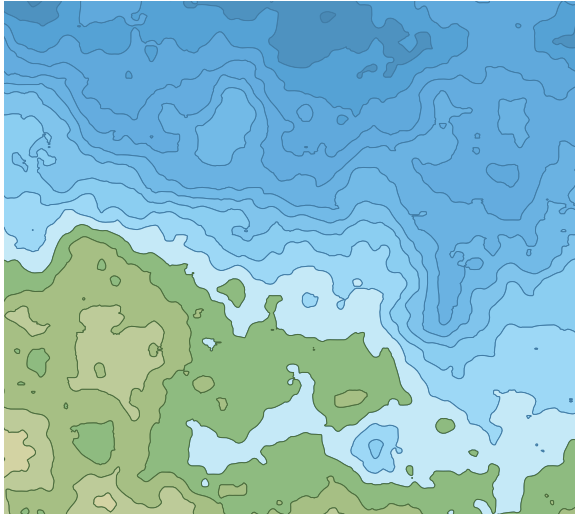


Federal laws like the National Environmental Policy Act govern Section 408 approval.

Compliance with federal environmental laws and regulations

Federal laws like the National Environmental Policy Act, Endangered Species Act, and National Historic Preservation Act govern Section 408 approvals. These laws safeguard people's health, the environment, endangered species, and cultural resources. Your Section 408 Coordinator will work with you to determine what data needs to be included to comply with these laws.

- You may need the following reviews to meet the requirements established in federal law:
 - An environmental analysis that looks at how your request affects biodiversity, environmental justice, wetlands, air and water pollution, traffic, geotechnical risks, public safety issues, and hazardous substance issues. For complex requests, an Environmental Impact Statement may be needed (National Environmental Policy Act).
 - A Biological Assessment that looks at how your request may affect protected species and designated critical habitats (Endangered Species Act).
 - A cultural resource report that looks at how your request may affect historical, sacred, and archaeological sites (National Historic Preservation Act).
- **Please inform your Section 408 Coordinator if you are working with another federal agency on a National Environmental Policy Act review related to your request.** USACE can participate in the ongoing review, potentially saving you time.



Submitting your Section 408 permission request

Project descriptions, area maps, and engineering drawings are some of the items needed when submitting a Section 408 permission request.

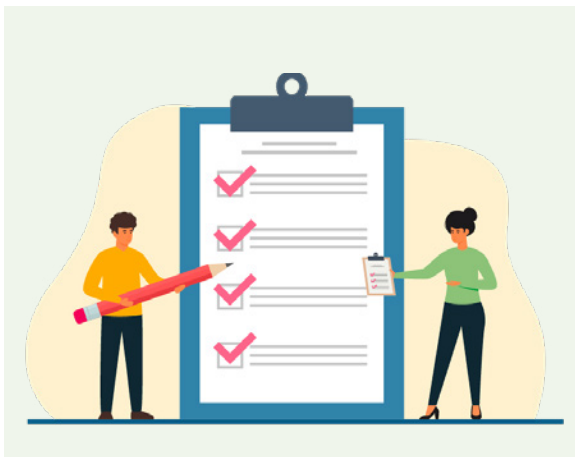
Districts can accept Section 408 permission requests digitally, in person, or by mail. Consult with the district's Section 408 website or your Section 408 Coordinator for instructions on how to apply to your district.

What your request may include

Each Section 408 request is different, so the contents of your Section 408 permission request will differ depending on your USACE district, the state in which the USACE project is located, and the request's complexity. **Contact your Section 408 Coordinator for more specific guidelines.**

Section 408 requests commonly include the following content:

- A cover letter with your signature, a construction schedule, and a Statement of No Objection from affected non-federal sponsors.
- A project description that describes your work, how the project will be accessed, and all construction techniques used.
 - Consult your Section 408 Coordinator for specific technical requirements.
 - Include descriptions of any materials added or removed from the site and any digging or dredging required, including where spoils will be deposited. This information should also be documented on a map.
 - Include maps and designs as follows:
 - » Drawings should show the USACE project being altered for the team to evaluate the impacts of the proposed work.
 - » Drawings should use best practices for engineering drawings and USACE standards- indicating project name, drawing number, date, name, scales, north arrows, and legends. Standards are available on the USACE website at <https://www.publications.usace.army.mil/>.
 - » Drawings should include notes, indicate project location, and details about construction methods, materials, and material specifications.
 - » Drawings should include a vicinity map, be to-scale, and include plans and profile views.
- Any required structural, hydrologic, hydraulic, and geotechnical analyses. Consult your Section 408 Coordinator for specific technical requirements.
- Updates to the USACE project's operations and maintenance manual required by non-federal sponsors.
- Real estate documentation indicating all the properties affected by your alteration.



What you need to be ready for during your review

- *You should be ready to answer questions from your district Section 408 Coordinator.*
- *Section 408 Coordinators will provide you with feedback and comments about your project.*
- *Your timely response is important to keeping your permission request moving forward.*
- *Please contact your Section 408 Coordinator if your plans change or you no longer need a permission.*

USACE REVIEW

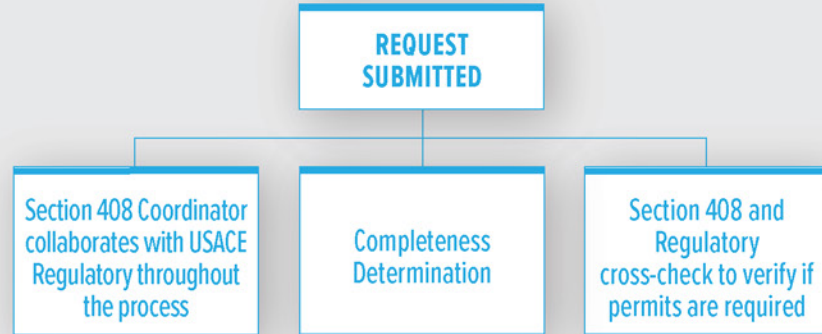
The USACE review process for Section 408 has three steps: the completeness determination, review and decision, and the final decision notification. USACE does the following during the review of your Section 408 request.

1. Reviews your Section 408 permission request to determine that it has all the information needed to process it. Questions and requests for information are very common. Unanticipated issues can arise and need to be addressed. You will need to provide any requested information for the process to continue. Your district will notify you when your Section 408 permission is ready to be reviewed.
2. Coordinates with USACE Regulatory to ensure Section 404 and Section 10 permits are processed, if applicable.
3. Holds a public comment period to collect feedback about your request, if necessary.
4. Performs geotechnical and hydraulic/hydrologic analysis, structural analysis, and real estate reviews, if necessary..
5. Conducts compliance reviews as outlined in the National Environmental Policy Act, Endangered Species Act, National Historic Preservation Act, and other applicable laws or regulations.
6. Coordinates with the U.S. Fish and Wildlife Service and National Marine Fisheries Service under Section 7 of the Endangered Species Act and other environmental laws.
7. Coordinates with Tribes and State Historic Preservation Officers near the USACE project to determine that historical, cultural, and archaeological sites will not be disturbed.
8. Verifies your alteration complies with federal law governing navigable waters, dredging, and hurricane and storm damage reduction.
9. Compiles all documentation for the Summary of Findings to document the USACE decision.
10. Makes a final determination and provides permission, if appropriate.

STEP 1

DETERMINE COMPLETENESS

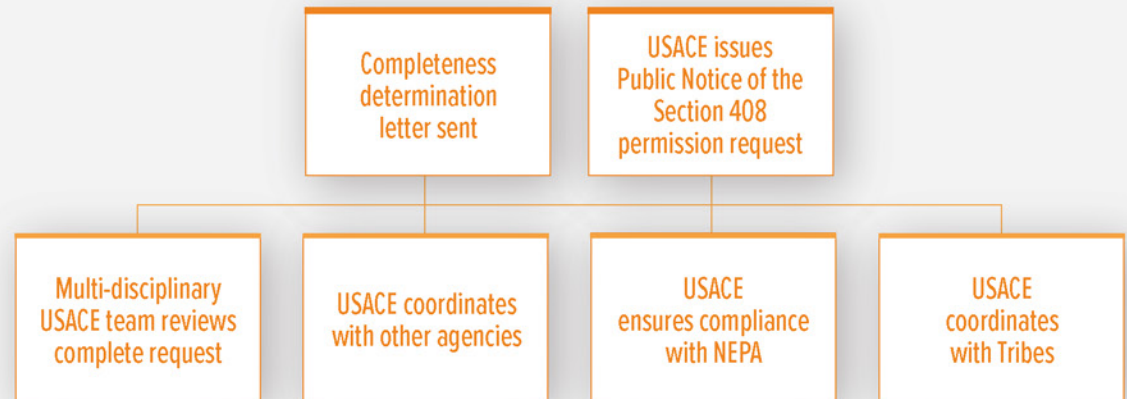
Requesters will receive queries for more information as 408 coordinators review requests and conditions at the USACE project. You may be asked to contact USACE Regulatory.



STEP 2

USACE REVIEWS

Requesters may receive additional questions during this phase.



STEP 3

NOTIFICATION AND CONSTRUCTION

If a request has a Regulatory permit application, Section 408 and Regulatory will coordinate. Both decisions will be sent to the requester together. Requesters must inform USACE before beginning and completing construction.





**Contact USACE
Headquarters with
additional questions:**



[https://www.usace.army.mil/
Missions/Civil-Works/Section408/](https://www.usace.army.mil/Missions/Civil-Works/Section408/)



HQ-Section408@usace.army.mil

CONSTRUCTION

Once USACE issues a final decision for your alteration to proceed, you should be ready to start construction.

- Ensure you have all your permits, including USACE and other federal permits, state, and local permits.
- You will need to notify your Section 408 Coordinator before construction begins and before it is scheduled to end.
- USACE may provide construction oversight as needed.
- You may have a close-out meeting with your district when you complete construction. They may ask for the following documents:
 - Drawings showing how your project was built.
 - Surveys and photographs documenting the USACE project's status before, during, and after construction.
 - An inspection to document as-built conditions.