



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
SOUTH PACIFIC DIVISION
450 GOLDEN GATE AVENUE
SAN FRANCISCO CALIFORNIA 94102-3661

CESPD-ZA (1110-2-1200a2)

MEMORANDUM FOR RECORD

SUBJECT: South Pacific Division Regional Categorical Permission for Section 408 Alterations to Civil Works Projects

1. References.

a. Engineer Circular (EC) 1165-2-220 (Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects).

b. CECW-CE, Memorandum (Interim Guidance on Section 408 Decision Level) 10 November 2016.

2. Purpose. The South Pacific Division (SPD) has prepared a Regional Categorical Permission (RCP) for request for alteration or occupancy at USACE Civil Works projects pursuant to 33 U.S.C. 408 (Section 408). The RCP, if adopted, would shorten the timeframe for the processing of covered alteration requests with a simple validation process to determine that the terms and conditions of the RCP are met. To address the potential environmental impacts of implementing the RCP, a Programmatic Environmental Assessment (PEA) was prepared in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 United States Code §§ 4321 *et seq.*), USACE's NEPA implementing regulations (33 Code of Federal Regulations part 230), and CEQ's 2014 guidance on the Effective Use of Programmatic NEPA Reviews. The document establish 26 categories of alterations that SPD has determined, individually and cumulatively, to be similar in nature, have less than significant impacts, and do not impair the authorized purpose(s) or usefulness of the Civil Works projects, nor are injurious to the public.

3. Purpose.

a. The South Pacific Division (SPD) has prepared a Regional Categorical Permission (RCP) for request for alteration or occupancy at USACE Civil Works projects pursuant to 33 U.S.C. 408 (Section 408). The RCP, if adopted, would shorten the timeframe for the processing of covered alteration requests with a simple validation process to determine that the terms and conditions of the RCP are met. To address the potential environmental impacts of implementing the RCP, a Programmatic Environmental Assessment (PEA) was prepared in accordance with the National

SUBJECT: South Pacific Division Regional Categorical Permission for Section 408 Alternations to Civil Works Projects

Environmental Policy Act of 1969 (NEPA; 42 United States Code §§ 4321 *et seq.*), USACE's NEPA implementing regulations (33 Code of Federal Regulations part 230), and CEQ's 2014 guidance on the Effective Use of Programmatic NEPA Reviews. The document establish 26 categories of alterations that SPD has determined, individually and cumulatively, to be similar in nature, have less than significant impacts, and do not impair the authorized purpose(s) or usefulness of the Civil Works projects, nor are injurious to the public.

b. The RCP is a regional tool for common crossings and occupancies. Implementation of the RCP lies with the districts to evaluate applicability and validate that individual requests satisfy the requirements of the RCP. District Commanders are authorized to further delegate permission authority consistent with references a. and b.

4. Scoping and Coordination. A public scoping notice including a list of proposed alterations was issued 4 September 2024 for a 30-day comment period. The notification was also posted to division and district Section 408 websites and sent to 2,545 federal and state agencies, county and city governments, reclamation districts, levee districts, flood control districts, special interest groups, nonprofit organizations, other potential interested entities, and 186 tribes. The draft RCP was published on 16 December 2024 for a 30-day comment period. All comments were addressed in the final RCP.

5. Safeguards. Approval of this RCP will not impair the authorized purpose(s) or usefulness of the Civil Works projects, will not result in significant impacts to the environment, nor are injurious to the public. This conclusion is based upon several programmatic constraints, including:

a. SPD has established a list of disqualifying circumstances that exclude Section 408 alteration requests from being covered by the RCP. These disqualifications include proposed alterations that cannot, by regulation, be approved by the District Commander; proposed alterations that are controversial or have considerable public interest; proposed alterations that result in jeopardy to a species protected under the federal Endangered Species Act; proposed alterations that would result in loss of sensitive habitat; proposed alterations that exceed federal de minimis air quality standards; proposed alterations that result in construction of new structures for human habitation; proposed alterations that adversely affect public facilities; or proposed alterations that result in development of floodplains.

b. The RCP identifies several engineering and environmental general conditions that all 408 alteration requests must comply with to be included in the RCP. These conditions are practicable measures to ensure that requests comply with the non-impairment and non-injurious findings in a consistent, predictable manner.

SUBJECT: South Pacific Division Regional Categorical Permission for Section 408 Alternations to Civil Works Projects

c. SPD district Commanders retain authority to add case-specific conditions to ensure that alterations meet the Section 408 criteria, and thus, evaluate individual Section 408 requests using the traditional single- or multiple-phase review per USACE policy. Additionally, district Commanders may also find that any specific request is inappropriate for validation under the RCP and exercise discretionary authority to require a full section 408 review.

6. Findings. I find that the information in the RCP and PEA, and described herein, supports a finding that the issuance of the RCP will not impair the usefulness of the USACE Civil Works projects included in the RCP, nor will it be injurious to the public interest.

7. My point of contact for this action is Ms. Tori White, tori.k.white@usace.army.mil or (415) 416-0329.

2 Encls

1. Regional Categorical Permission
For Section 408 Requests (SPD)
2. Programmatic Environmental
Assessment of Regional Categorical
Permission for Section 408 Requests

JAMES J. HANDURA
COL, EN
Commanding