

## **FINDING OF NO SIGNIFICANT IMPACT**

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### **PROGRAMMATIC ENVIRONMENTAL ASSESSMENT OF REGIONAL CATEGORICAL PERMISSION FOR SECTION 408 REQUESTS**

The U.S. Army Corps of Engineers (USACE), South Pacific Division (SPD) has conducted a programmatic environmental analysis in accordance with the National Environmental Policy Act of 1969, as amended (NEPA) (Title 42 of the United States Code §§ 4321 *et seq.*), and the USACE's NEPA implementing regulations (Title 33 of the Code of Federal Regulations part 230). The *Final Programmatic Environmental Assessment of Regional Categorical Permission for Section 408 Requests* (PEA), dated February 25, 2025, addresses implementing a regional categorical permission (RCP) to simplify the review process for minor alterations to USACE projects within the Civil Works boundary of the SPD.

The Final PEA, incorporated herein by reference, evaluated a preferred alternative (the proposed action) implementing the RCP. This RCP action would simplify the review process for 26 categories of minor alterations to federal civil works projects that are similar in nature, have similar effects, and would not significantly impact the human environment. The PEA also considered a no action alternative involving continuation of the existing Section 408 approval process.

A proposed Section 408 alteration request may be approved under the RCP if it aligns with one or more of the specified alteration categories, is designed in accordance with the standards described in the RCP document, would not impair the authorized purposes of the civil works project or be injurious to the public interest, has no other disqualifying circumstances, and meets specified engineering and environmental conditions. The disqualifying circumstances and the specified engineering and environmental conditions that Section 408 alteration requests must meet to be included in the RCP are discussed in the Final PEA.

### **SUMMARY OF ENVIRONMENTAL EFFECTS**

The PEA excludes several environmental resource areas from detailed analysis because they would not be affected by adoption of the proposed RCP: geology, hazardous materials, land use, and socioeconomics. Justification for not analyzing these environmental resource areas any further is found in Section 1.5.2 of the PEA.

The PEA evaluated the environmental effects of the proposed RCP on 14 resource areas

(Table 1). All practicable and appropriate means to avoid or minimize adverse environmental effects were analyzed and incorporated into the preferred alternative. Best management practices discussed in the PEA would be implemented, as appropriate, to minimize impacts, and compensatory mitigation is not required as part of the preferred alternative.

Pursuant to Section 7 of the Endangered Species Act of 1973, as amended (ESA), the USACE is required to consider the potential effects of the proposed action on 409 listed species and 208 designated critical habitats protected by the U.S. Fish and Wildlife Service (USFWS) and the 22 listed species and 10 designated critical habitats protected by the National Marine Fisheries Service (NMFS). Given the large geographic extent covered by the RCP and the number of ESA-protected species and habitats within that region, it is impractical for the PEA to discuss the specific effects of all potential actions on threatened and endangered species in advance. Under the preferred alternative, SPD districts would evaluate each Section 408 request for effects on threatened and endangered species and their designated and critical habitat as requests are submitted. This review would include species listed or proposed for listing under the ESA and designated critical habitat. Districts would then consult with the USFWS or NMFS under Section 7 of the ESA, as appropriate. A Section 408 alteration request would not be approved until appropriate ESA Section 7 consultation is completed. If a Section 408 alteration request would jeopardize the continued existence of a listed species or adversely modify critical habitat, it would not be eligible to be processed under the RCP.

Pursuant to Section 106 of the National Historic Preservation Act of 1966, the USACE is required to consider potential impacts on cultural resources and historic properties of any undertaking they permit. This requirement also applies to any permits reviewed and approved under the RCP. Under the preferred alternative, each district would continue to evaluate all Section 408 alteration requests for their potential to affect cultural resources or historic properties and, when that potential exists, consult with the appropriate State Historic Preservation Officer and/or Tribal Historic Preservation Officer, interested Native American Tribes, and other relevant parties as required by law and regulation.

**Table 1. Summary of Potential Effects of the Preferred Alternative**

<b>Resource categories</b>	<b>Less-than-significant effects</b>	<b>Less-than-significant effects resulting from mitigation</b>	<b>Resource unaffected by action</b>
<b>Aesthetics</b>	<b>X</b>		
<b>Air quality</b>	<b>X</b>		
<b>Aquatic resources/wetlands</b>	<b>X</b>		
<b>Invasive species</b>	<b>X</b>		
<b>Fish and wildlife habitat</b>	<b>X</b>		
<b>Threatened/Endangered species/critical habitat</b>	<b>X</b>		
<b>Historic properties</b>	<b>X</b>		
<b>Other cultural resources</b>	<b>X</b>		
<b>Vegetation</b>	<b>X</b>		
<b>Recreation</b>	<b>X</b>		
<b>Farmland and agriculture</b>	<b>X</b>		
<b>Noise levels</b>	<b>X</b>		
<b>Transportation and traffic</b>	<b>X</b>		
<b>Water quality</b>	<b>X</b>		

Pursuant to the Clean Water Act of 1972, as amended (CWA), Section 408 alteration requests covered by the RCP that would result in discharge of dredged or fill material into waters of the United States would be compliant with the CWA Section 404(b)(1) guidelines. Pursuant to the Rivers and Harbors Act of 1899, as amended (RHA), any Section 408 alteration request covered by the RCP that would involve construction of a structure in or over a navigable water of the United States would require RHA Section 10 approval. If a permit under Section 404 of the CWA or Section 10 of the RHA is required for a proposed alteration, the Section 408 Coordinator and Regulatory Division staff would coordinate their actions to ensure consistency with the RCP. For any alteration requiring a CWA Section 401 Water Quality Certification, the Section 408 Coordinator would ensure the certification is obtained or waived, as required under law, before a Section 408 alteration request is approved under the RCP.

## CONCLUSION

All applicable laws, executive orders, regulations, and local government plans were considered in evaluation of alternatives. Based on the information presented in the PEA, it is my determination that the preferred alternative, approving the RCP, would not cause significant adverse effects on the quality of the human environment and, therefore, preparation of an environmental impact statement is not required.

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Date

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Colonel James J. Handura  
Colonel, Corps of Engineers  
SPD Division Commander