



US Army Corps
of Engineers
Wilmington District

Section 408 Review Of Non-Federal request to Potential Alter/Impact a Federal Project

- **Authority to grant permission for temporary or permanent alterations of Federal projects**
- **Activity will not be injurious to public interest**
- **Activity will not eliminate a authorized project purpose**
- **Activity can not have the affect of deauthorizing a project**



CONGRESSIONAL DISTRICT: NC Statewide and VA 5, 6, 9

DATE: 23 February 2015

1. **AUTHORIZATION:** Language under 33 U.S.C. §408 gives the Secretary of the Army the ability to grant permission for the alteration or occupation or use of a Federal project if, after review, it is determined that the proposal will not negatively impact the usefulness of the project.
2. **REQUESTORS:** Requests for Section 408 permission can originate from a non-Federal sponsor or an independent requester. If the project has a non-Federal sponsor but is operated and maintained by the Corps, the Corps must obtain concurrence from the sponsor as part of the 408 process.
3. **DESCRIPTION:** In order to grant permission under Section, 408, the Corps must determine that the proposed alteration does not impair the usefulness of the Corps project, which includes retaining the project's authorized purposes, and is not injurious to the public interest. Because alterations vary in size, level of complexity, and potential impacts, the procedures and required information to make such a determination vary. Ultimately, the Corps will make a determination regarding whether or not the proposed alteration impairs the usefulness of the project and is not injurious to the public interest.
4. **FEDERAL FUNDING FOR FEDERAL REVIEW ACTIVITIES for NON-FEDERAL SECTION 408 REVIEWS:** Federal review activities under the Section 408 authority are potentially funded under appropriated funds for specifically authorized projects or under remaining items when a federally authorized project does not receive project specific funds.

PROJECT INFORMATION – Section 408 Review of Non-Federal Request to Potentially Alter/Impact a Federal Project - Continued

Funds from the remaining item - Inspection of Completed Works, can be expended during the Federal government's review for federally authorized levee systems, channels, and dams operated and maintained by a non-federal sponsor. Funding under the remaining item - Project Condition Surveys, can be utilized for Federally operated and maintained navigation projects which do not have funding within the project's operations and maintenance appropriation.

5. **ISSUE AND INFORMATION:** Current authority allows the Federal government to accept contributed funds from states and other governmental entities to be expended in connection with funds appropriated by the United States, but it does not permit the acceptance of funds from private entities to conduct the review activities. Also, the future costs to the Federal government for Section 408 reviews is expected to increase as the number of requests continue to rise.