



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NEW ORLEANS DISTRICT
7400 LEAKE AVENUE
NEW ORLEANS, LA 70118-3651

CEMVN-DE

30 Aug 18

MEMORANDUM FOR Operations Division (CEMVN-OD)

SUBJECT: Categorical Permissions for Alterations to Civil Works Projects under Section 408

1. References:

- a. Rivers and Harbors Act of 1899 (codified in 33 U.S.C. §408).
- b. EC 1156-2-216. (Policy and Procedural Guidance for Processing Request to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC §408), dated 30 September 2015.
- c. New Orleans District Procedural Review Plan Pursuant to 33 U.S.C. Section 408, 27 June 2016.
- d. Programmatic Environmental Assessment #556, titled "Categorical Permission to Alter U.S. Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408", dated 3 November 2017.
- e. Delegation of Authority Pursuant to 33 U.S.C. Section 408, memo dated 29 August 2017.

2. Authority.

a. Reference 1.a authorized U.S. Army Engineers District commanders to grant permission to use, occupy, and alter federally-constructed civil works projects. These activities are collectively referred to in this memo as "alterations."

b. Pursuant to paragraph 6(s) of reference 1.b., categorical permissions may be granted for alteration that are similar in nature, have similar impacts, and are appropriate in scope and scale for approval thru a simplified process.

3. Purpose. Categorical permissions are intend to be a flexible tool for districts, divisions, and HQUSACE to use in order to streamline the approvals of "categories" of alterations that are similar in nature and that have similar effects to a USACE Civil Works Projects and impacts to the environment. The list of "categories" have been identified by USACE as a specific and commonly occurring set of activities that require a Section 408 permission, and have been determined not to impact the usefulness of

the USACE Project(s), the associated environmental impacts are less than significant, and the activities would not be injurious to the public interest. Since the alterations will be constructed in accordance with USACE standards, the alterations will not impair the usefulness of the federal projects, will not limit the ability of the projects to function as authorized and will not compromise or change any authorized project conditions, purposes or outputs. Initial technical permission reviews served as basis for a qualitative risk assessment to determine that the alteration would not increase the risks associated with the risk screening or higher level risk assessment information. Therefore, the alterations will have no adverse impact to the USACE Projects. Sufficient technical reviews and coordination have been accomplished to ensure that the alterations will not impact the usefulness of the USACE Project for these categories of projects. It has also been determined through the environmental review that there are no significant environmental impacts from these categories of alterations, reference 1.d.

4. Overview. This memo grants categorical permissions for specifically enumerated alterations to civil works projects located within the New Orleans District, and prescribes simplified procedures for determining whether the proposed alterations qualify for categorical permissions. Alterations categorically permitted by this memo must also be permitted, licensed, authorized or approved as required by other applicable federal, state, and local law. Individual Section 408 request are reviewed for compliance with this categorical permission. For those individual request that are consistent with the terms and conditions of the categorical permission, a Section 408 permission can be granted with an abbreviated validation process to determine that the terms are met.

5. Categorical Permission. By virtue of the authority conferred on District Engineers by reference 1.b., a categorical permission is hereby granted for the following alterations, as noted, below, and that do not, for any reason, adversely affect the integrity or function of a civil works or contravene the public interest, as per reference 1.a:

a. Categories:

1. Pipeline crossings including horizontal directional drills, open cuts, ramp-overs, and floodwall penetrations.
2. Utility lines including fiber optic, water, natural gas, and electricity, both aerial and underground, including associated structures and support poles.
3. Bulk material conveyor systems.
4. Culverts, drainage pipes, and drainage ditches.
5. Vehicle and pedestrian bridges.

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6. Bank stabilization and erosion control features.
 7. Bulkheads, docks, wharfs, mooring pilings and dolphins.
 8. Barge fleeting operations in channels with existing barge fleeting operations.
 9. Cattle guards, fences, and other ranching and farming activities on easement lands.
 10. Trails, signage, lighting, and other similar operational, recreational, and decorative features.
 11. Soil investigations and seismic surveys, including borings, piezometers, and inclinometers.
 12. Levee ramps and crossings.
 13. Alterations that meet engineering requirements and environmental conditions
 - b. Maintenance, repair, and rehabilitation of prior approved alterations; provided, such maintenance, repair or rehabilitation does no more than restore a previously approved improvement, structure, element, component or feature is authorized, pre-existing dimensions, character or condition.
6. Eligibility Assessment Procedure.
- a. A simplified procedure will be used to determine whether proposed alterations, by virtue of their scope, scale and foreseeable impacts on civil works projects, are categorically permitted by this memo. The purpose of the procedure is to establish whether the proposed alterations qualify for categorical permissions as per paragraph 4 above. If so, no further analysis is required.
 - b. Request for permission to use, occupy, or alter federally constructed civil works projects will be examined to determine whether the proposed alterations are eligible for categorical permission.
 - i. Written request and statement of no objection from the non-federal sponsors will be included for each requested alteration. Potential categorical permissions will be coordinated with those non-federal sponsors with responsibility for the USACE project(s). Non-federal sponsors will be given the opportunity to provide input on all aspects of the proposed specific categorical permission, with specific attention to

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concerns regarding impacts on their operations and maintenance responsibilities and public interest considerations.

ii. The Lead Engineer assigned to review a request will identify the Federal civil works project(s) that are impacted by the proposed alteration. Federal Projects within New Orleans District can be found in Appendix A, reference 1.d.

iii. The Lead Engineer assigned to review a request will determine whether the proposed alteration reasonably meets all relevant requirements for categorical permissions set forth in paragraph 5, above. In performing this limited threshold assessment, the Lead Engineer will consult with subject matter experts in the Real Estate Division, the Engineering Division, the Environmental Branch and/or any other Office as may be necessary or appropriate, to determine whether all relevant requirements have been or, with suitable modifications to the proposal, can be met.

iv. The Lead Engineer will consult with subject matter experts and will request a verification of the site specific analysis provided with each request to assure that USACE engineering, real estate, environmental and operations and maintenance requirements, policies, and standards used to establish this Categorical Permission have been met.

v. If the Lead Engineer assigned to review a request determines, after conferring with pertinent subject matter experts, that a proposed alteration (or a proposed alteration, as modified) does reasonably meet all relevant requirements for categorical permission, the Lead Engineer will recommend to the District's 408 Coordinator that the requester be informed that the proposed alteration is categorical permitted. If the 408 Coordinator concurs, a permission letter will be prepared, for signature by the Chief of Operations Division as delegated signature authority by reference 1.e, informing the requester of the same. The written approval will include any terms and conditions of the categorical permission.

vi. A copy of the permission letter and of the request will be sent to the Levee Safety Officer for information and to the non-federal sponsor for the civil works project impacted by the alteration.

vii. If the Lead Engineer assigned to review a request determines, after conferring with pertinent subject matter experts, that a proposed alteration does not reasonably meet all relevant requirements for categorical permission, the request will be processed in accordance with reference 1.c.

7. Public Participation. Per paragraph 6(s) of reference 1.b, public participation in the establishment of categorical permissions will be invited in two ways: this memo will be posted on the U.S. Army Corp of Engineers, New Orleans District's public website

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posted on the U.S. Army Corp of Engineers, New Orleans District's public website (<http://www.mvn.usace.army.mil/Missions/Section-408/>); and this memo will be emailed to all levee districts and levee authorities and other non-federal sponsors in New Orleans District. I will review all comments received within 30 days (of posting of or receipt) with a view to determining what revisions to this memo, if any, should be made. If I determine that revisions to this memo should be made, a revised version will be posted on the New Orleans District public website and will be emailed to all levee districts and levee authorities and other non-federal sponsors.

8. Revision and Termination. This categorical permission will periodically be reviewed of the categorical permission itself to ensure that its use continues to meet its intended purpose to not impair the usefulness of the applicable USACE Project(s) and not be injurious to the public interest. Should the periodic review of this document demonstrate that the categorical permission is not meeting its intended purpose, the District Commander, as appropriate, has the authority to suspend or revoke the categorical permission.



MICHAEL N. CLANCY
Colonel, EN
Commanding