

U.S. House Committee on Energy and Commerce
Subcommittee on Energy, Climate, and Grid Security
“American Hydropower: Unleashing Reliable, Renewable, Clean Power Across the U.S.”
September 20, 2023
Questions for the Record
Thomas P. Smith

The Honorable Bill Johnson

1. Does the Army Corps consider grid reliability when overseeing the relicensing of and continued operation of hydroelectric projects? And do you think Congress would be wise to give you more flexibility to do that if needed?

Answer: When considering the operations and maintenance of the Corps’ 75 Federally owned hydropower plants, we consider grid reliability and grid impacts in cooperation with our Federal Power Marketing Administrations and preference customers who purchase our power. For non-federal hydropower development at our Corps owned non-powered dams, our authority does not require us to consider impacts, positive or negative, to grid reliability during our review process. We rely on the expertise of the Federal Energy Regulatory Commission to consider any grid reliability impacts during the development process.

The Honorable Ann McLane Kuster

1. Congress directed USACE to develop uniform guidance to review section 408 applications per provisions in the 2022 Water Resources and Development Act. May you provide the Committee a Gantt chart that details the USACE’s schedule to finalize its new guidance as directed by Congress?

Answer: The attached Memorandum for Record extends the current 408 guidance in EC 1165-2-220 until the guidance is superseded by rulemaking. The timeline for this rulemaking is uncertain. Regarding impacts to non-federal hydropower development, USACE 408 and Hydropower Program managers are working closely to monitor and address consistency issues throughout USACE regarding 408 requests for hydropower development as well as District and Division level process improvements.



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MEMORANDUM FOR COMMANDERS, MAJOR SUBORDINATE COMMAND AND DISTRICTS

SUBJECT: Extension of EC 1165-2-220, Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 U.S.C. 408.

1. References.

Engineer Circular (EC) 1165-2-220, dated 30 September 2018, *Policy and Procedural Guidance for Processing Requests to Alter U.S. Army Corps of Engineers Civil Works Projects Pursuant to 33 U.S.C. 408*.

2. This memorandum extends the use of reference 1, until such a time EC 1165-2-220 is superseded by rulemaking. The process of transitioning the policy and procedures for implementing 33 U.S.C. 408 ("Section 408") from an EC to the Code of Federal Regulations will require extensive review and comment in order to inform any modifications and updates during the rulemaking process. Corps elements implementing Section 408 are therefore directed to continue applying the EC 1165-2-220 until the Section 408 policy is published in the Code of Federal Regulation.

3. If there is a need for further information or clarification, please contact Travis Tutka, Dam and Levee Safety Branch Chief, HQUSACE, at 202-761-5731, or by email at Travis.C.Tutka@usace.army.mil

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Division and District Section 408 Coordinators