

Section 408 APPLICATION

Civil Works Project Alteration (Section 408) For use of this form,
see SWG-OD-408-APP



PART I - BUSINESS/COMPANY APPLICANT INFORMATION

1a. BUSINESS/COMPANY NAME		*Email this application to: CESWG-OD-INT-REV@usace.army.mil	
1b. LAST NAME (SIGNATORY FOR APPLICANT)	FIRST NAME	M.I.	
1c. TITLE	1d. E-MAIL	1e. PHONE	
1f. ADDRESS	1g. CITY	1h. STATE	1i. ZIP CODE

PART II - AGENT INFORMATION (IF APPLICABLE):

2a. BUSINESS/COMPANY NAME			
2b. LAST NAME (AGENT)	FIRST NAME	M.I.	
2c. TITLE	2d. E-MAIL	2e. PHONE	
2f. ADDRESS	2g. CITY	2h. STATE	2i. ZIP CODE

PART III - LEGAL OFFICER / CERTIFYING OFFICER INFORMATION

(For dredging must be an attorney, for all others must be corporate officer)

3c. LAST NAME	FIRST NAME	M.I.	
3d. TITLE	3e. E-MAIL	3f. PHONE	
3g. ADDRESS	3h. CITY	3i. STATE	3j. ZIP CODE

PART IV - PERMITTING

4a. Do you hold a current authorizing Regulatory document (i.e., Section 404, Section 10, Nationwide Permit(s) or Letter of Permission) for the requested activity? If "Yes", ATTACH COPIES of all permits and amendments.	yes	no	
	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4b. Have you applied for a regulatory permit for this action? If "Yes" include application # in box 4c	yes	no	4c.
	<input type="radio"/>	<input type="radio"/>	

PART V - PROJECT DESCRIPTION

5a. TYPE (check all that apply) Dredging <input type="checkbox"/> Pipeline <input type="checkbox"/> Other Construction <input type="checkbox"/> None of these <input type="checkbox"/>	5b. DREDGING New work <input type="radio"/> Maintenance <input type="radio"/> Estimated c.y. Required documents	5c. PIPELINE New work <input type="radio"/> Replacement <input type="radio"/> Crossing federal channel? <input type="radio"/> yes <input type="radio"/> no Required documents	5d. GIS/CADD .shp <input type="checkbox"/> .dwg <input type="checkbox"/> Requirements
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5e. PROPOSED START DATE	ESTIMATED END DATE
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5f. SUMMARY OF PROJECT

PART VI - CERTIFICATION

I HEREBY CERTIFY that I am of legal age and authorized to do business in the State of Texas and that I have personally examined the information contained in this application and believe that the information submitted is correct to the best of my knowledge.

NAME

SIGNATURE

DATE

Instructions

Submit the Section 408 application to:
CESWG-OD-INT-REV@usace.army.mil

Part I – Business/Company Applicant Information

1a – The “Applicant” is the entity in whose favor the transactional documents will be issued. Agent information should be entered in Part 2 of the form. The applicant may be as follows:

- An Individual. Provide the legal name of the individual.
- An Individual trading as a firm or doing business under a firm or trade name.
- A Partnership. The names of all partners or the name of the partnership by one partner who signs on behalf of the firm (see notes on Partnerships).
- A Corporation or Association. Provide the name of the corporation and the name of the officer with official capacity signing on behalf of the entity.
- State or local governmental entities. Provide the name of the entity and the name of the officer with official capacity signing on behalf of the entity.
- Applicants must submit Articles of Incorporation or other formation documents and a W-9.

For pipeline application Owner information should be placed in Part I. If

there is no additional agent, operator information may be placed in Part II (please note “operator” after business name in block 2a). In cases where there are both an agent and operator, provide operator information within the Summary of Project section (5f).

Part II – Agent Information

The agent of an Applicant cannot sign on behalf of the Applicant. A signatory is typically a corporate officer. Funds for payment of administrative fees or consideration will only be accepted from the Applicant. Agents may not make payment on behalf of an Applicant.

Part III – Legal Officer/ Certifying Officer Information

For Legal Officer and Certifying Officer requirements refer to the notes applicable to your type of entity.

Notes on Partnerships

The signer will be required to furnish extracts from the Partnership agreement indicating the names of the general partners. In order to expedite the application, please include this with the initial submission. In lieu of this evidence, the signer may furnish a Partnership Certificate, certifying that the signer has authority to bind the partnership as follows:

I, (Partner X) certify that I am a General Partner in the Partnership named as Grantee of the attached Section 408 Final Decision Letter, I certify that (Partner Y), who signed said Section 408 Final Decision Letter on behalf of the Partnership, is also a General Partner and has the authority to bind the Partnership by virtue of the powers vested in him/her in the Partnership agreement.

Notes on Corporations or Associations



The corporation seal will be affixed on final Section 408 documents prior to execution by USACE. The signer will furnish extracts from the Articles of Incorporation (also known as Formation documents), the by-laws, or the minutes of the board of directors, duly certified by the custodian of such records, under the corporate seal (if there is one), which properly vest the signer with authority to bind the corporation. In lieu of this evidence the grantee may furnish a certificate signed by an appropriate corporate officer, other than the person executing the Section 408 Final Decision Letter, as follows:

CORPORATE CERTIFICATE

I, (Name), certify that I am the (Secretary) of (Entity Name), Inc., that who signed the foregoing instrument on behalf of the corporation was then of the corporation. I further certify that the said officer was acting within the scope of powers delegated to this officer by the governing body of the corporation in executing said instrument.

Corporate Secretary or Appropriate Officer
(AFFIX CORPORATE SEAL)

Notes on State or Local Governmental Entities

The signer will furnish an extract from the minutes of the entity, indicating that the Section 408 Final Decision Letter was approved by the governing body of the entity and authorizing a named individual to execute the Section 408 Final Decision Letter on its behalf. In lieu of the minutes, the grantee may furnish a certificate signed by an appropriate official, other than the person executing the Section 408 Final Decision Letter, as follows:

CERTIFICATE OF AUTHORITY

I, (Name), certify that I am the (Clerk) of (Entity Name) that who signed the foregoing instrument on behalf of the grantee was then (Name/ title)

of (Entity Name). I further certify that the said officer was acting within the scope of powers delegated to this governing body of the grantee in executing said instrument.

Part IV – Regulatory Permits

Regulatory Permits control the activities of the Applicant to be performed in the Waters of the United States, including Wetlands, pursuant to applicable laws and regulations, such as Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.

Part V – Project Description

The project description is the most critical part of the application. For a multi-faceted project, please check all required activities in box 5a (that apply) and complete the boxes for the corresponding activities. Provide a detailed description of the project. Include GIS and/or CADD files with the application (see Cadastral Data and Format Requirements). The following sections detail additional requirements for dredging and pipeline activities:

Dredging

Please provide complete scope of work along with maps showing the area to be dredged, placement areas to be used and location or alignment of temporary dredge pipelines.

- A hydrographic survey showing the area to be dredged must also be submitted.
- List placement areas identified in Regulatory Permit in order of preference.
- If both new and maintenance dredging are required, please select new in the form and describe the

maintenance portion within the project description.

- Include detailed timelines for the project, as well as completing line 5e of the form.

Sediment Testing Requirement

Approval of sediment testing plans and reports, prior to issuance of a clearance, is required for all Applicants. Contact the Operations Division to obtain information on sediment testing requirements.

Phone: 409-766-3973

Email: SWG-NB@usace.army.mil

Pipelines

Please provide a complete narrative of the project. The narrative should include the pipeline starting and ending points, route, channel crossings, tie-ins, valve stations, access roads, ingress, egress and the ROW needed for the pipeline.

If available please submit:

- Railroad commission of Texas T-4 form which identifies the pipeline owner
- Railroad commission of Texas PS-8000A Form
- Geotechnical study

If a pipeline crosses a Federal Channel, Placement Area(s) or Placement Area Levee, Hurricane Levee, or Tributary Waters of the United States, the Applicant must provide cross-section diagrams depicting depth, entry and exit points for each crossing. Applicants must also provide any and all stand-off distances between the pipeline and any of the features listed above; to include

other pipelines. Identify the diameter of each pipeline, the type of fuel or product being transported, and the pipeline configuration for each bundle. If there will be ground disturbance (e.g. trenching, excavation), please address the following:

- What are the dimensions (i.e. length, width, and/or depth) of each type of ground disturbance (e.g. trench, fence post-hole and/or leveling)?
- Will more than an acre of ground surface be disturbed? How much?
- What kind of equipment will be used? How will the work be done?
- Will access across Government controlled property, in addition to the area identified for the requested activity, be required for equipment? If so, where?
- Will there be a staging and/or storage area(s) required? If so, where are the locations and dimensions? Will the staging and/or storage area(s) be located off-site of the proposed action?

Additionally, please address the following:

- Are there any cultural resources known to exist in the area? If so, what?
- Describe other reasonable alternative routes or locations that were considered and the reasons these alternatives were not selected.

Note: Pipelines 24-inches in diameter or larger, which impact fee simple land owned by the United States require Congressional approval. Applicants should anticipate a delay in processing such Section 408 Final Decision Letters.

Administrative Fees & Consideration

Two types of funds are collected from Applicants, administrative fees and consideration. Administrative fees are paid in advance. Consideration is paid at the time the transactional documents are executed.

Administrative Fees

Section 1156(a)(2) of WRDA 2016 authorizes the collection of the administrative fees to cover costs to the Government for processing requests for the use of Government controlled property. These costs include, but are not limited to, payment for work products such as environmental, cultural and historical assessments, contract preparation, determinations of value, and preparation of land surveys, maps and legal descriptions.

After initial screening, the Land Use Coordinator assigned to the application performs a scope of work analysis for the purpose of developing an administrative fee cost estimate. Once a cost estimate is established, an administrative fee letter will be sent to the Applicant requesting payment administrative fees. Payment of administrative fees is required before further work can occur.

If the actual administrative costs for processing the application are greater than the initial request, the Applicant will be notified and required to pay the additional amount for processing of the

application to continue. If excess funds exist at the time processing of the application is complete, the balance will be refunded to the Applicant.

Cadastral Data & Format Requirement

Applicants must submit GIS data in either the equivalent or lesser version of the following: AutoCAD 2016 (.dwg) or ESRI ArcMap 10.4.1 (.shp) file. Upon receipt of a design CADD or a GIS file, we will better determine the location of project interest and limits. Include the Regulatory Permit Tracking Number/Application Number and indicate the coordinate system and datum that the drawing is currently in. The design data should consist of simple lines and polygons indicating the limits of the completed project.

Ensure that all layers are properly named to describe specific features. Include a legend or shoe boxes with leader lines, identifying each feature class within the drawing. All areas must be created in real-world (model space) with an assigned coordinate system. Please do not send drawings with XREFs or reference files. Insert all needed files or feature layers into one design file. PDF's of proposed project plans and/or as-built imagery are helpful for further review.

To help keep file sizes to the minimum, imagery and USGS Quads do not need to be provided.

Preferred Projected Coordinate System

- Datum: North American 1983 (Survey Feet)
- Projection: State Plane
- Zone: Texas South Central