

**33 U.S.C. Sec. 408**  
**Side-by-Side Analysis of Potential Reforms**

Corps Reform Working Group Proposed Legislation	Administration Infrastructure Proposal	EC 1165-2-220 Draft
33 U.S.C. § 408 – Limit scope of Section 408 to structural integrity of U.S. Army Corps of Engineers (Corps) facilities.	Part 3, Sec. B.2. – Clarify that alternatives outside the scope of an agency’s authority or applicant’s ability are not feasible. Part 3, Sec. B.5. – Focus agency National Environmental Policy Act (NEPA) analysis on areas of special expertise or jurisdiction. Part 3, Sec. C.1.d. & e. Allow use of one NEPA document for Section 404 and 408 permits for same action.	
33 U.S.C. § 408 – Issue a rule with uniform standards & procedures for Section 408 permits.		Create new appendices to EC 1165-2-220 with more detailed processes, standard conditions, and templates to improve consistency and efficiency.
33 U.S.C. § 2352 –Allow private funds for infrastructure and domestic energy projects; extend this provision to 2029.	Part 3, Sec. B.15. – Expand agency authority to accept funds from non-federal entities for permit review and NEPA documentation with appropriate control for conflict of interest and agency independence.	
	Part 3, Sec. C.1.b. – Give Corps authority to make final jurisdictional determinations regarding navigable waters under Clean Water Act Section 404; Environmental Protection Agency would continue to have a role in any rulemaking to ensure consistency of WOTUS definition.	
		Eliminate duplication of effort by aligning Section 408 decisions with the Corps Real Estate outgrant and certain Rivers and Harbors Act Section 10 (obstructions in navigable waters) regulatory processes.
		Delegate all Section 408 decisions to division and district offices.
		Create a multi-phase review option for requesters who want to pursue Section 408 permission in milestones or smaller phases; implementing review and notification timelines in accordance with the Water Resources Development Act of 2016.
		Develop a Section 408 tracking database to better enable requesters to track the status of their request.