



**US Army Corps  
of Engineers** ®  
Norfolk District

## **Section 408 Categorical Permission 2 (408-CP-02) Review Request Form**

### **Section 408 Categorical Permission 2 (408-CP-02) Review Request Form for Low Impact Alterations Conducted By Nonfederal Sponsors or Independent Requestors to the Sandbridge Beach Erosion and Hurricane Protection Project in Virginia Beach, Virginia.**

#### **To be completed by the Section 408 Requester:**

U.S. Army Corps of Engineers, Norfolk District (USACE) Section 408 Categorical Permission 2 (408-CP-02) grants permission to alter the Sandbridge Beach Erosion Control and Hurricane Protection Project (federal project), a USACE Civil Works project, via a variety of requests from property owners for minor and low impact activities such as sand maintenance and construction of structures on residential properties located within the federal project easement. Property owners at the federal project have requested and are expected to continue to request authorization to have sand and debris removed or to construct and maintain a variety of surface or subsurface structures on private property that require Section 408 coordination. All proposed activities will take place landward of mean high water (MHW).

- **Sand Maintenance** - Sand from Sandbridge Beach is continuously migrating through natural processes onto residents' properties such as yards, decks, and pools. Residents frequently propose to remove excess sand that has migrated onto private property and place the sand back onto Sandbridge Beach and within the federal project limits to maintain their properties. Maintenance may also be required for non-sand marine debris that migrates through natural processes onto private property and may require disposal.
- **Structures** - Property owners at the federal project have requested and are expected to continue to request authorization to construct and maintain a variety of surface or subsurface structures on private property but within the federal project easement. Structures may include but are not limited to bulkheads (or low-profile retaining walls), piles, decks, pools, storage sheds, landscaping, or other residential structural features. Structures may be constructed and maintained for various purposes including protection of property, safety, improvements to meet local or state codes, aesthetics, and recreation.

This Categorical Permission (CP) was issued pursuant to requirements set forth in Appendix C of Engineer Circular (EC) 1165-2-220, *Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408*, 10 September 2018.

To initiate a 408-CP-02 verification review request, the Section 408 Requester (Requester) must fully complete this CP Review Request Form<sup>1</sup>, below, including the requested information in Section A, confirmation of compliance with the terms and conditions of 408-CP-02 in Section B, additional information in Section C, and provide a final signature certifying that the information provided is complete and accurate.

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<sup>1</sup> The form is intended for application purposes only and includes information that USACE reviewers require when considering a Section 408 request for activities covered under this CP. Completion of this form does not grant Section 408 permission, but only serves to initiate a verification review under the CP. The project description and plans should reflect the required information. The Section 408 permission is not granted until the District has confirmed compliance with the CP and provided a final written Section 408 permission letter.

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**Disqualifying Circumstances:** The following circumstances would disqualify the use of this CP:

1. The alteration could not be decided at the District level.
  2. The alteration would remove riparian or sensitive habitat.
  3. The alteration would adversely impact a public use facility.
  4. The alteration would not be authorized by a concurrent City of Virginia Beach Sandbridge General Permit or Coastal Primary Sand Dune Permit issued by the City of Virginia Beach Wetlands Board.
  5. The alteration would adversely impact a historic resource pursuant to Section 106 the National Historic Preservation Act (NHPA).
  6. The alteration would require an individual Environmental Assessment (EA) or Environmental Impact Statement (EIS) outside the scope already addressed in this CP and in the associated Programmatic EA.
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### A. Requester and Project Information

#### 1. Requester Contact Information

Name:

Mailing Address, City, State, Zip Code:

Phone Number:

Email:

#### 2. Project Location (include address if different from mailing address):

#### 3. Detailed Project Description including excavation and/or constructions methods and estimation of quantity of sand material volume to be removed as measured in cubic yards (CY) *(if you need more space, use Section C. below or attach a separate document):*

#### 4. Are there any architectural structures 45 years or older or known archeological historic resources located on the project location which would be subject to review pursuant to Section 106 of the National Historic Preservation Act (NHPA)\*? ☐ YES ☐ NO

\*Note: Additional coordination may be required by USACE to ensure that no adverse effects will occur to historic resources. If an adverse effect will occur, this CP is not valid, and an individual Section 408 review will be required.

If yes, please provide detailed information:

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5. This Section 408 Request includes (*you must check BOTH boxes below to comply*):

- ☐ Construction drawings showing the details of all proposed activities (sand maintenance and/or construction of structures) within the limits of the Sandbridge Beach Federal Project.
- ☐ Project description which identifies the proposed excavation method to be utilized to move the sand that has migrated into the private residential property back into the beach area (ex. compact skid steer loader, compact excavator, compact utility vehicle, compact tractor, other small hydraulic equipment, etc.).

### B. Categorical Permission Condition Compliance – **PLEASE CHECK ALL THAT APPLY**

**Categorical Permission Conditions:** Please review the standard terms and conditions and special conditions and check the applicable box at the end of each condition to acknowledge you understand and/or agree to comply the condition. All the standard and special conditions must be met to qualify for this CP, unless demonstrated as not applicable (N/A) to your proposed project. If the proposed alteration does not meet all these conditions, the proposed alteration will be evaluated under a separate Section 408 review process. Please note that USACE reserves the right to impose project specific conditions in addition to the conditions below.

#### **Standard Terms and Conditions (Appendix K):**

☐ YES: The Requester hereby acknowledges that they have read and agree to comply with the standard terms and conditions pursuant to Engineering Circular (EC) 1165-2-220 (10 September 2018), Appendix K. You may access a copy of the Appendix K standard terms and conditions on the Norfolk District Section 408 webpage: <https://www.nao.usace.army.mil/408Review/> or email a request for a hard copy to [nao.section408@usace.army.mil](mailto:nao.section408@usace.army.mil).

#### **Special Conditions:**

1. You understand that this categorical permission satisfies Section 408 requirements ONLY. The Requester agrees to obtain any additional landowner permission and any other applicable federal, state, or local permits need to be secured before work can begin.

☐YES or ☐N/A; include rationale why condition is N/A:

2. You understand that you must ensure all authorized work is completed in compliance with a City of Virginia Beach Sandbridge General Permit or Coastal Primary Sand Dune Permit issued by the City of Virginia Beach Wetlands Board. This Section 408 permission expires the same date of the most current City of Virginia Beach permit authorization(s) for the same property. Following expiration, a new Section 408 request will be required under this CP.

☐YES or ☐N/A; include rationale why condition is N/A:

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3. You understand you are not authorized, under any circumstances, to place sand seaward of any sea turtle nest(s), regardless of distance.

☐ YES or ☐ N/A; include rationale why condition is N/A:

4. You understand that from May 15 through November 15 of any given year, you must confirm that no sea turtle nesting has occurred within 500 feet of the sand placement site prior to beginning work each day. This must be done by visual inspection of the beach to check for presence of a marked nest or new nests.

☐ YES or ☐ N/A; include rationale why condition is N/A:

5. You understand that if a structure includes lighting, you must contact the U.S. Fish and Wildlife Service at [virginiafieldoffice@fws.gov](mailto:virginiafieldoffice@fws.gov) to ensure compliance with the Endangered Species Act.

☐ YES or ☐ N/A; include rationale why condition is N/A:

6. You understand that from May 15 through November 15 of any given year, sand maintenance and activities associated with construction of structure(s) (decks, gazebos, walkways, pools, etc.) shall be prohibited from dusk until 8:00 AM.

☐ YES or ☐ N/A; include rationale why condition is N/A:

7. You understand that from May 15 through November 15 of any given year, you must ensure that construction lights remain off from dusk until 8:00 AM daily to prevent lighting impacts from skid steer loaders, temporary construction lights, and other equipment lighting to nesting females and hatchlings.

☐ YES or ☐ N/A; include rationale why condition is N/A:

8. You understand if a sea turtle nest is sectioned off in the area where sand maintenance activities will occur, you shall ensure that no sand is placed on the beach within a 500-foot buffer of the nest and no equipment shall be driven on the beach within a 50-foot buffer around the perimeter of the nest.

☐ YES or ☐ N/A; include rationale why condition is N/A:

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9. You understand that from May 15 through November 15 of any given year, any sand you place on the beach during sea turtle nesting season shall be graded so that it is level with existing gradient and ruts from equipment shall be smoothed to eliminate the risk of trapping a turtle in the ruts.

☐ YES or ☐ N/A; include rationale why condition is N/A:

10. You understand that you shall not disturb or touch a sea turtle, sea turtle nest, or sea turtle hatchling.

☐ YES or ☐ N/A; include rationale why condition is N/A:

11. You understand that you are required to notify USACE of the presence of any architectural structures which are 45 years or older and of the presence of any known archeological historic resources. USACE must confirm that the proposed activities will not cause an adverse effect on historic properties and/or resources in compliance with Section 106 of the National Historic Preservation Act (NHPA) prior to verification of this CP.

☐ YES or ☐ N/A; include rationale why condition is N/A:

12. You and any subsequent property owner understand that normal or emergency operation and maintenance of the federal project may require access to developed areas (e.g., excavation to underlying stormwater lines). In this event, the City of Virginia Beach and U.S. Army Corps of Engineers may need to remove or cause damage to the approved encroachments without advance notice. Any costs to repair or restore the approved encroachments shall be at the expense of the current property owner.

☐ YES or ☐ N/A; include rationale why condition is N/A:

13. You and any subsequent property owner understand that when the work or structures authorized by the 408-CP-02 are still in existence at the time the property is transferred, the terms and conditions of the most current 408-CP-02 approval will continue to be binding on the new owner(s) of the property. To validate the transfer of the current 408-CP-02 approval and the associated responsibilities associated with compliance with its terms and conditions, the new property owner(s) shall submit a *Section 408 Categorical Permission 2 Transfer Request Form* enclosed with the original 408-CP-02 verification letter or provided upon request to the Section 408 Coordinator at [nao.section408@usace.army.mil](mailto:nao.section408@usace.army.mil).

☐ YES or ☐ N/A; include rationale why condition is N/A:

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- C. Additional Information or Comments (use this section if needed to provide more project details, further address any of the special conditions above, or to reference required attachments):**

**This Section 408 review request is hereby submitted for verification that the proposed project meets the terms and conditions of the Norfolk District's Section 408 Categorical Permission 2 (408-CP-02) to alter the Sandbridge Beach Erosion Control and Hurricane Protection Project. I and my duly authorized agent, if applicable, certify that the information presented in this CP review request checklist is complete and accurate.**

\_\_\_\_\_  
**Printed Name of Requester**

\_\_\_\_\_  
**Printed Name of Duly Authorized Agent**

\_\_\_\_\_  
**Signature of Requester**

\_\_\_\_\_  
**Signature of Duly Authorized Agent**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Date**