



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

## Section 408 Categorical Permission 1 (408-CP-01) Review Request Form

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

U.S. Army Corps of Engineers, Norfolk District (USACE) Section 408 Categorical Permission 1 (408-CP-01) grants permission to alter specific Civil Works Federal Navigation Projects located in the Middle Peninsula of Virginia and covers any approved alteration<sup>1</sup> to conduct maintenance dredging and dredged material placement activities within the designated Federal Navigation Project framework and in conjunction with a Department of the Army (DA) permit verification or authorization. This Categorical Permission (CP) was issued pursuant to requirements set forth in 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, Appendix C.

The designated USACE Civil Works Federal Navigation Projects covered by 408-CP-01 are listed below and included on the maps depicted on the document titled "Section408\_Categorical\_Permission1\_CW\_Project\_Maps.pdf" which can be found on the Norfolk District Section 408 webpage: <https://www.nao.usace.army.mil/408Review/>. The referenced project maps indicate each Federal Navigation Project included in this CP, the non-federal sponsor for the USACE Civil Works project, distance to USACE designated placement site if applicable, geo-referenced channel framework, setback distance from the Federal Navigation Project indicating boundary for which Section 408 authority applies, and authorized dimensions.

To initiate a 408-CP-01 verification review request, the Section 408 Requester (Requester) must fully complete this CP Review Request Form<sup>2</sup>, below, including the requested information in Section A, confirmation of compliance with the terms and conditions of 408-CP-01 in Section B, additional information in Section C, and provide a final signature certifying that the information provided is complete and accurate.

### **DISQUALIFYING CIRCUMSTANCES:**

The following conditions would disqualify the use of 408-CP-01:

1. The alteration does not require a Department of the Army permit authorization or verification from the Norfolk District Regulatory Branch.
2. The alteration could not be decided at the District level.
3. The alteration would remove riparian or sensitive habitat.
4. The alteration would adversely impact a public use facility.
5. The alteration would require an Environmental Assessment (EA) or Environmental Impact Statement (EIS) outside the scope already addressed in this CP and in the DA permit decision document.

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<sup>1</sup> "Alteration" refers to any action by any entity other than USACE that builds upon, alters, improves, moves, obstructs, or occupies an existing USACE project. Unless otherwise stated, for ease of reference, the use of the term "alteration" in this document also includes "occupation" and "use."

<sup>2</sup> Note: The following form is intended for application purposes only and includes information that USACE reviewers require when considering a Section 408 request for 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 Section 408 permission is not granted until the USACE reviewer has confirmed compliance with the CP and provided a final written Section 408 permission letter.

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**A. Requester and Project Information**

1. Requester Contact Information

Name:

Mailing Address:

Phone Number:

Email:

2. Project Location:

3. Detailed Project Description (*if you need more space, use Section C. below or attach a separate document*):

4. This Section 408 Request includes (*you must check all the boxes below to comply*):

- Construction drawings showing the details of all proposed activities within the limits of the Federal Navigation Project and designated setback distance for which Section 408 authority applies.
- Plan view of the dredging area and a typical cross section showing maximum dredging depths in feet at mean low water (MLW) and any paid allowable overdredge depths.
- Estimated quantity of dredged material volume to be removed as measured in cubic yards (CY).
- Identification of the final disposal location of where dredged material will be placed including a vicinity map.
- Dredging method to be utilized to conduct the proposed work (ex. mechanical dredge such as a barge-mounted or land-based excavator, clam shell dredge, hydraulic cutterhead with pipeline, etc.).

5. Select the Federal Navigation Project Channel to be altered:

- |  |   |
|--|---|
| <input type="checkbox"/> Aberdeen Creek  | <input type="checkbox"/> Mill Creek         |
| <input type="checkbox"/> Broad Creek     | <input type="checkbox"/> Pamunkey River     |
| <input type="checkbox"/> Davis Creek     | <input type="checkbox"/> Parrots Creek      |
| <input type="checkbox"/> Horn Harbor     | <input type="checkbox"/> Queens Creek       |
| <input type="checkbox"/> Hoskins Creek   | <input type="checkbox"/> Rappahannock River |
| <input type="checkbox"/> Jackson Creek   | <input type="checkbox"/> Urbanna Creek      |
| <input type="checkbox"/> Locklies Creek  | <input type="checkbox"/> Whittings Creek    |
| <input type="checkbox"/> Mattaponi River | <input type="checkbox"/> Winter Harbor      |
| <input type="checkbox"/> Milford Haven   |   |

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6. Department of the Army (DA) permit authorization for which you have applied for with the Norfolk District Regulatory Branch (an associated DA permit is required to qualify for this CP):

- Regional Permit 2 (RP-02)
- Nationwide Permit 19 (NWP-19)
- Nationwide Permit 35 (NWP-35)
- Letter of Permission (LOP)
- Standard (Individual) Permit (SP/IP)

Provide DA application number, if known (ex. NAO-YYYY-00000):

**B. Categorical Permission Condition Compliance**

**Categorical Permission Conditions:** Please review the standard and special terms and 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 will comply with the standard terms and conditions pursuant to Engineer 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. The Requester understands that is 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, including any applicable and required Regulatory Program authorizations or Real Estate Consent to Easements.

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

2. The Requester confirms the proposed maintenance dredging will not exceed the authorized dimensions of the Federal Navigation Project (depth or width). This does not include any paid allowable overdepth dredging as described in this CP.

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

3. If the Requester is not the non-federal sponsor (NFS) of this Federal Navigation Project, the Requester has provided a copy of a written "Statement of No Objection" from the NFS as part of this alteration request as required per EC 1165-2-220, Paragraph 11(a). The NFS should provide a written statement explicitly stating, "As the non-federal sponsor, we/I are/am aware of the scope of the Section 408 request and do not object to the request being submitted to the U.S. Army Corps of Engineers, Norfolk District to initiate the evaluation of the Section 408 review request". The NFS is documented on the "Section408\_Categorical\_Permission1\_CW\_Project\_Maps.pdf" which can be found on the Norfolk District Section 408 webpage: <https://www.nao.usace.army.mil/408Review/>.

Yes or  N/A; include rationale why condition is N/A:

4. The Requester has included, as required in Section A.4. above and Special Condition #4 of this CP, (a) Construction drawings showing the details of all proposed activities within the limits of the Federal Navigation Project and designated setback distance for which Section 408 authority applies, (b) A plan view of the dredging area and typical cross section showing maximum dredging depths in feet at mean low water (MLW) and any paid allowable overdredge depths, (c) Estimated quantity of dredged material volume to be removed as measured in cubic yards (CY), (d) Identification of the final disposal location of where dredged material will be placed including a vicinity map, and (e) The dredging method to be utilized to conduct the proposed work (ex. mechanical dredge such as a barge-mounted or land-based excavator, clam shell dredge, hydraulic cutterhead with pipeline, etc.).

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

5. The Requester has acquired all the appropriate property rights as needed for construction, operation, and maintenance of the alteration. This only applies if the Requester is seeking to use a USACE Civil Works Project asset such as a dredged material placement site in which the Government already owns the property or has a real estate interest conveyed from the non-federal sponsor of the Federal Navigation Project.

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

6. The Requester agrees to restore areas associated with access to the project site in which a USACE real estate instrument is required with the alteration to pre-construction conditions once the work is complete, if applicable.

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

7. The Requester confirms that if dredged material is proposed to be placed nearshore or overboard and adjacent to the Federal Navigation Project, the limit of dredged material will not encroach within the setback distance from the Federal project as shown on the referenced maps titled "Section\_408\_Categorical\_Permission\_CW\_Project\_Maps.pdf" which can be found on the Norfolk District Section 408 webpage: <https://www.nao.usace.army.mil/408Review/>.

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

8. The Requester agrees that if the alteration activities interfere with marine traffic in the Federal Navigation Channel, the Requester will coordinate all activities with the US Coast Guard Sector Virginia (USCG) at VirginiaWaterways@uscg.mil or (757) 668-5580 a minimum of 45 days prior to commencement of work, so that those activities that may impact navigation can be included in the Local Notice to Mariners.

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

9. The Requester agrees that if the alteration activities require the USCG to temporarily or permanently relocate any Aids to Navigation (ATONs) to facilitate maintenance dredging activities, the Requester will coordinate those activities with the USCG Sector Virginia at VirginiaWaterways@uscg.mil or (757) 668-5580 a minimum of 45 days prior to commencement of work, so that the USCG is allowed adequate time to coordinate resources ~~and~~ to relocate ATONs.

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

10. The Requester must ensure that its contractor performs all work in such a manner that its dredge plant and associated equipment encroaches or obstructs the Federal Navigation Channel to the minimum extent possible. If the contractor's dredge plant or equipment does obstruct the channel and makes it difficult for or endangers the safe passage of vessels, said dredge plant must be promptly moved on the approach of any vessel to such an extent as may be necessary to afford a safe passage.

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

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11. The Requester agrees to contact all companies/agencies whose existing utilities are located within the designated construction area(s) to determine whether those utilities need to be relocated or modified to accommodate the proposed alteration, or whether they would pose any hazards to construction workers or equipment performing the alteration.

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

**C. Additional Information or Comments (as needed, use this section to provide additional project details or include as a separate attachment):**

**This review request form is hereby submitted for verification that the proposed project meets the terms and conditions of the Norfolk District's Section 408 Categorical Permission 1 (408-CP-01) to alter the above referenced Federal Navigation Project. I and my duly authorized agent, if applicable, certify, via signature below, that the information presented is complete and accurate.**

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

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

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

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

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

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