



US Army Corps of Engineers

# Maintenance Exemption Summary

Sacramento District  
1325 J Street  
Sacramento, CA 95814-2922

## Maintenance (Including Emergency Reconstruction)

Pursuant to Section 404 of the Clean Water Act (33 USC 1344) and Federal Regulations (33 CFR 323.4(a)(2)), certain discharges for the maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures, have been exempted from requiring a Section 404 permit. Maintenance does not include any modification that changes the character, scope, or size of the original fill design. Emergency reconstruction must occur within a reasonable period of time after damage occurs in order to qualify for this exemption.

A Section 404 permit is required if either of the following occurs:

- (1) Any discharge of dredged or fill material resulting from the above activities which contains any toxic pollutant listed under Section 307 of the Clean Water Act shall be subject to any applicable toxic effluent standard or prohibition, and shall require a permit.
- (2) Any discharge of dredged or fill material into waters of the United States incidental to the above activities must have a permit if it is part of an activity whose purpose is to convert an area of the waters of the United States into a use to which it was not previously subject, where the flow or circulation of waters of the United States may be impaired or the reach of such waters reduced. Where the proposed discharge will result in significant discernible alterations to flow or circulation, the presumption is that flow or circulation may be impaired by such alteration. For example, a permit will be required for the conversion of a wetland from silvicultural to agricultural use when there is a discharge of dredged or fill material into waters of the United States in conjunction with construction of dikes, drainage ditches, or other works or structures used to effect such conversion. A conversion of a Section 404 wetland to a non-wetland is a change of use of an area of waters of the United States. A discharge which elevates the bottom of waters of the United States without converting it to dry land does not thereby reduce the reach of, but may alter the flow or circulation of, waters of the United States.

If the proposed discharge satisfies all of the above restrictions, it is automatically exempted and no further permit action from the Corps of Engineers is required. If any of the restrictions of this exemption will not be complied with, a permit is required and should be requested using ENG Form 4345 (Application for a Department of the Army permit). A nationwide permit authorized by the Clean Water Act may be available for the proposed work. State or local approval of the work may also be required.

For general information on the Corps' Regulatory Program please check our web site at [www.spk.army.mil/regulatory.html](http://www.spk.army.mil/regulatory.html). For additional information or for a written determination regarding a specific project, please contact the Corps at the following addresses:

Sacramento Main Office-1325 J Street, Room 1350, Sacramento, CA 95814	(916) 557-5250
Redding Field Office- 310 Hemsted, Suite 310, Redding, CA 96002	(530) 223-9534
Reno Field Office- 300 Booth Street, Room 3050, Reno, NV 89509	(775) 784-5304
Bountiful Field Office- 533 West 2600 South, Suite 150, Bountiful, UT 84010	(801) 295-8380
Grand Junction Field Office- 400 Rood Ave., Room 224, Grand Junction, CO 81501	(970) 243-1199
Durango Field Office- 1970 East 3rd Avenue, Suite 109, Durango, CO 81301	(970) 259-1764
St. George Field Office- 196 East Tabernacle St., Suite 30, St. George, UT 84770	(435) 986-3979