

The following information is intended to aid the public on the U.S. Army Corps of Engineers (USACE) Regulatory Program for emergency activities in New England states (Connecticut, Massachusetts, New Hampshire, Rhode Island, Maine, and Vermont) that may be regulated under Section 404 Clean Water Act and Section 10 Rivers & Harbors Act.

An **emergency** is defined by the USACE Regulatory Program as:

A situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if no action is taken. In these situations, the District Engineer (DE) can authorize expedited reviews of permit applications.

Before taking any action, you must contact the USACE Regulatory Division if you need to perform emergency work. Contact the USACE Regulatory Division by phone or email as soon as possible to discuss the situation. The USACE Regulatory Division has the responsibility to determine if the proposed work is consistent with the definition of an emergency, whether authorization is needed, and if so, which type of authorization is required. Unauthorized work may be subject to enforcement action.

We encourage the public to contact us with questions regarding permitting:

District Headquarters, Concord, MA (CT, MA, NH, RI, and Transportation and Utilities Section)

- (978) 318-8338
- Connecticut: cenae-r-ct@usace.army.mil
- Massachusetts: cenae-r-ma@usace.army.mil
- New Hampshire: cenae-r-nh@usace.army.mil
- Rhode Island: cenae-r-ri@usace.army.mil
- Transportation and Utilities Section: cenae-r-tu@usace.army.mil

Maine Project Office

- (978) 318-8916
- Maine: cenae-r-me@usace.army.mil

Vermont Project Office

- (802) 872-2893
- Vermont: cenae-r-vt@usace.army.mil

General information and request submittals: <https://rrs.usace.army.mil/rrs>

The USACE Regulatory Division may not view an action as an emergency if the applicant has known of the deficient condition of the failing structure and has not made reasonable attempts to secure appropriate permits and conduct timely repairs. Emergency declarations by the state or a county government do not mean all repair activities qualify as emergency situations.

All permit reviews, including emergency reviews, require coordination with tribes, state, and federal agencies. In an emergency, reasonable effort will be made to receive comments from interest groups and others who may be affected by the action.

What activities require authorization from USACE?

Section 10 (33 CFR Part 322): USACE authorization (permit) is generally required for *structures* and *work* in or affecting *navigable waters of the U.S.* pursuant to Section 10 of the Rivers and Harbors Act of 1899. Navigable waters are defined as those waters that are subject to the ebb and flow of the tide and/or are presently used or have been used in the past or may be susceptible for use to transport interstate or foreign commerce (33 CFR 329.4). Examples of *structures* may include private docks & floats, wharfs, pier supported structures, seawalls, riprap, revetments, boat ramps, and breakwaters.

Section 404 (33 CFR Part 323): USACE authorization is generally required for the discharge of dredged or fill material into *waters of the U.S.* under Section 404 of the Clean Water Act (CWA), unless otherwise exempt. Waters of the U.S. (WOTUS) include the navigable waters described above, their relatively permanent tributaries (streams & rivers), wetlands adjacent to those waters, and lakes & ponds with a continuous surface connection to such waters.

Does my existing permit authorize the maintenance and repair of previously authorized structures & work?

Maintenance of certain Section 10 structures & work in navigable waters of the U.S. that have been previously authorized (permitted) by USACE may not require additional authorization, provided it remains in compliance with the terms & conditions of the original USACE permit and current Federal Regulation. Permit holders should refer to their original permit for the activity, and determine whether maintenance has been previously authorized or required by a general or special condition.

Individual Permits issued by USACE should include the following general condition from 33 CFR Part 325, Appendix A:

“You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.”

Most USACE authorizations include this condition or language substantially similar. In these cases, permittees may proceed with maintenance or reconstruction activities without obtaining further authorization from USACE provided they comply with all terms & conditions of the original permit; including the original footprint & location of the structure or work authorized, time of year restrictions, BMPs, and conditions relating to other Federal laws.

Section 404 Maintenance exemption (33 CFR 323.4(a)(2)): Discharges of dredged or fill material into waters of the U.S. that may result from any of the following activities are not prohibited by or otherwise subject to regulation under Section 404 of the CWA:

“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. 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 has occurred in order to qualify for this exemption.”

Please note: The 404(f) exemptions are self-implementing, meaning the public is not required to get authorization for use of exemptions. However, we encourage applicants to reach out or thoroughly understand the use & limitations prior to implementation under their own liability. Refer to 33 CFR 323.4 for limitations that may apply to all 404(f) exemptions (i.e. the “recapture provision”). *Exemptions do not apply to structures & work activities located in the navigable waters of the U.S., including tidal coastlines, which may require authorization pursuant to Section 10 of the Rivers and Harbors Act.*

The Regulatory Request System (RRS) No Permit Required (NPR) (Activity-Based) self-screening tool can be utilized to assist with project screening for exemption eligibility (<https://rrs.usace.army.mil/rrs>).

Does USACE have an emergency permit process?

Currently, we do not have special permit processing procedures in place for non-energy related emergencies pursuant to 33 CFR 325.2(e)(4). However, certain emergency activities may be authorized and can proceed under the current General Permits “non-PCN” procedures without written authorization. The GPs are available at <https://www.nae.usace.army.mil/Missions/Regulatory>

The Regulatory Request System (RRS) No PCN Required self-screening tool can be utilized to assist with project screening for exemption eligibility (<https://rrs.usace.army.mil/rrs>).

For energy-related emergency actions qualifying under Executive Order (E.O.) 14156, please follow the procedures outlined in our Special Public Notice available at: https://www.nae.usace.army.mil/Portals/74/20250415_EO_14156_Special_PN_Announcing_Emergency_Procedures.pdf

What activities do not require authorization from USACE?

Uplands: Activities occurring solely in dryland or uplands do not require any authorization from USACE. USACE regulates discharges of material in waters of the U.S. and activities in or affecting navigable waters, which include, but are not limited to, most lakes/ponds, rivers, streams, intermittent streams, natural drainage courses, ocean, and wetlands. Activities outside these waters typically do not require authorization.

Pilings in 404-only waters: In most cases, the installation or replacement of pilings (or effectively similar structures) does not require authorization under Section 404, unless they are placed or installed so closely together that they have the effect of fill material (see 33 CFR 323.3(c)).

Excavation in 404-only waters: Sediment and debris removal in Section 404 waters to restore sites to pre-flood conditions may not require a permit if there is no associated discharge of fill material and the work does not occur within Section 10 waters.

Other 404(f) exemptions: In addition to the maintenance exemption described above, USACE has exemptions at 33 CFR 323.4 for the following activities, with certain limitations:

- Normal farming, silviculture, and ranching activities.
- Construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance (but not construction) of drainage ditches.
- Construction of temporary sedimentation basins on a construction site which does not include placement of fill material into waters of the U.S.
- Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained in accordance with best management practices (BMPs).

What if I do need authorization from USACE?

Even in non-emergency situations, USACE utilizes a series of general permits to streamline authorizations as appropriate for minor activities that result in no more than minimal adverse effects to the aquatic environment. For emergency situations USACE strives to expedite the processing of these general permits with quicker than normal processing times. In many cases we are able to meet the needs of the public and their timeframes in this way.

Applicants may be eligible to conduct emergency related activities under the current General Permit No. 3 for Maintenance, which authorizes the following:

“The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP also authorizes the removal of previously authorized structures or fills. Any stream channel modification is limited to the minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications, including the removal of material from the stream channel, must be immediately adjacent to the project. This NWP also authorizes the removal of accumulated sediment and debris within, and in the



U.S. ARMY



US Army Corps
of Engineers®
New England District

Fact Sheet Emergency Procedures for New England District July 2026

immediate vicinity of, the structure or fill. This NWP also authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays.”

General Information and Project submittals: <https://rrs.usace.army.mil/rrs>

When in doubt, reach out!