

Example Activities Requiring Department of the Army Permits

The following listed activities, given in 33 CFR Parts 320 - 330, normally require Department of the Army (DA) permits. Applicable authorities are shown in italics following each listed activity. Certain specific categories of activities may be exempted or permitted by nationwide general permits or regional general permits. For information regarding exemptions, nationwide permits, or regional permits, contact the applicable Office shown below.

1. Dikes and/or dams in navigable waters of the United States. **Section 9, Section 404**
2. Structures and/or work in or affecting navigable waters of the United States. **Section 10**
3. The discharge of dredged or fill material into waters of the United States. **Section 404**
4. Structures or work outside the limits of navigable waters of the U. S., if these activities affect the course, location, or condition of the waterbody in such a manner as to impact on its navigable capacity. **Section 10**
5. A tunnel or other structure or work under or over a navigable water of the United States. **Section 9 or 10**
6. Structures for small boats including; piers, boat docks, moorings, platforms and similar structures in navigable waters of the United States. **Section 10**
7. Aids to navigation, including fixed and floating aids, in a navigable water of the United States. **Section 10**
8. A canal or other artificial waterway is subject to regulation if it constitutes a navigable water of the United States, or if it is connected to navigable waters of the United States in a manner which affects their course, location, condition, or capacity, or if at some point in its construction or operation it results in an effect on the course, location, condition, or capacity of navigable waters of the United States. **Section 10**
9. The connection to navigable waters of the United States. **Section 10**
10. Power transmission lines crossing navigable waters of the United States unless those lines are part of a water power project subject to the regulatory authorities of the Department of Energy under the Federal Power Act of 1920. **Section 10**
11. Structures in navigable waters of the United States associated with seaplane operations. **Section 10**
12. Structures located within shipping safety fairways and anchorage areas established by the U. S. Coast Guard. The Department of the Army will grant no permits for the erection of structures in areas designated as fairways, except that district engineers may permit temporary anchors and attendant cables or chains for floating or semisubmersible drilling rigs to be placed within a fairway under certain conditions. **Section 10**
13. If any discharge of dredged or fill material resulting from the exempted activities listed in 33 CFR Part 323.4 paragraphs (a)(1)-(6) contains any toxic pollutant listed under section 307 of the CWA such discharge shall be subject to any applicable toxic effluent standard or prohibition, and requires a DA permit. **Section 404**
14. Any discharge of dredged or fill material into waters of the United States incidental to any of the exempted activities identified in 33 CFR Part 323.4 paragraphs (a)(1)-(6) must have a DA 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 cypress swamp to some other use or 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

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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 in 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.

Section 404

Notes and Definitions

Bridges and causeways above or in Navigable Waters of the United States may require a Section 9 permit from the U. S. Coast Guard in addition to a Section 404 permit from the Army Corps of Engineers. It is advisable to contact both of these agencies for a determination of permit requirements.

Dredged material is defined at 33 CFR 323 to mean material that is excavated or dredged from waters of the U. S.

Discharge of dredged material is defined at 33 CFR 323 to mean any addition of dredged material into, including any redeposit of dredged material within, the waters of the United States. The term includes, but is not limited to, the following:

- i. the addition of dredged material to a specified discharge site located in waters of the United States;
- ii. the runoff or overflow from a contained land or water disposal area; and
- iii. any addition, including any redeposit, of dredged material, into waters of the United States which is incidental to any activity, including mechanized land clearing, ditching, channelization, or other excavation.

The term does not include certain specified discharges and activities (see 33 CFR 323 for listing and discussion).

Fill material is defined at 33 CFR 323 to mean any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a waterbody. The term does not include any pollutant discharged into the water primarily to dispose of waste.

The discharge of dredged or fill material into waters of the United States may require a Section 401 Water Quality Certification from a state agency in addition to a Section 404 permit from the Army Corps of Engineers. It is advisable to contact both of these agencies for a determination of permit requirements.

Section 9 means Section 9 of the Rivers and Harbors Act of 1899.

Section 10 means Section 10 of the Rivers and Harbors Act of 1899.

Section 404 means Section 404 of the Clean Water Act (CWA).

For further information, contact one of the District offices:

Louisville District Office
P.O. Box 59
Louisville, KY 40201
(502) 315-6733

Indianapolis Regulatory Office
9799 Billings Road
Indianapolis, IN 46216
(317) 532-4227

E. Kentucky Regulatory Office
845 Sassafras Creek Road
Sassafras, KY 41759
(606) 642-3404

Newburgh Regulatory Office
6855 State Road 66
Newburgh, IN 47630
(812) 853-5631