



M E M O R A N D U M

Date: January 27, 2023

Subject: Emergency Collaboration and Permitting Guidance

Purpose

This document is a guide on the different regulators/entities to contact, and/or receive a permit from during an emergency project to remove flood and waterway debris. This is not a complete list, be sure to keep contact with any other agency that might have jurisdiction, depending on the situation.

The term waterway debris is used to describe any solid material, including but not limited to vegetative debris and debris that could be exposed to or release oil, hazardous substances, pollutants, or contaminants, or threaten critical infrastructure that enters a waterway following an acute incident and poses a threat to the natural or man-made environment. This may include shoreline and wetland debris and debris in coastal, tidal, and inland waterways.

Here is a questionnaire that can help walk through compliance contacts and information for your project: Environmental and Historic Tracking Form

Types of Debris

The type and quantity of waterway debris generated after a disaster is highly dependent on land use and existing infrastructure. Debris may include:

- Chemical contaminated
- Construction and demolition
- Electronic waste (e-waste)
- Household hazardous waste/material
- Soil, mud, and sand
- Vegetative debris
- Vehicles and vessels
- White goods



Process

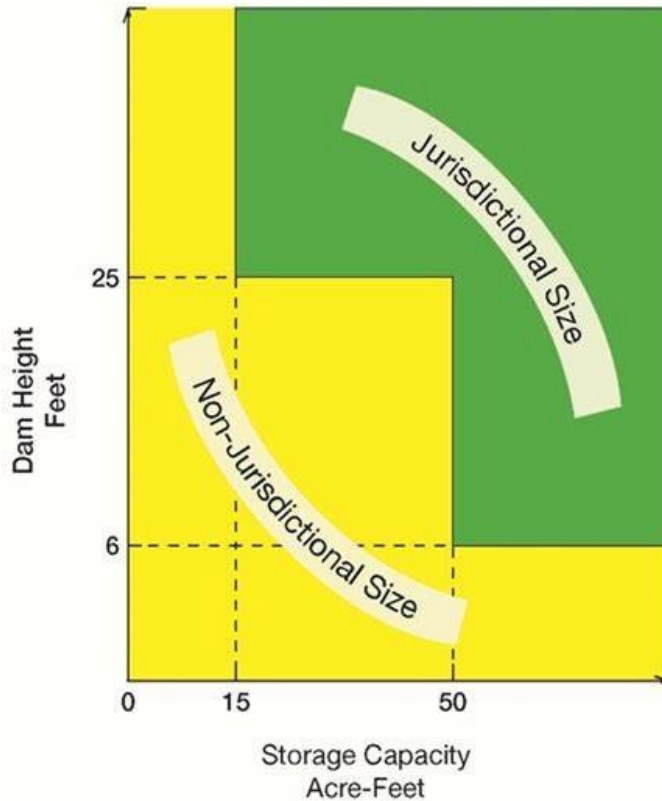
a. CA Coastal Commission

- i. Jurisdiction: Coastal Management Zone (one thousand yards inland from the coast)
- ii. Activity/Trigger: Construction work within the Coastal Management Zone (e.g., Placement of segregated fill on a beach)
- iii. If immediate action is allowed under Public Resources Code Section 3061 within three days (72 hours) of the disaster or discovery of the danger, whichever occurs first, for authorization to conduct emergency action, then submit the required information within seven days of taking emergency action.
- iv. Contact: Cassidy.Teufel@coastal.ca.gov.
- v. Link to the permit:
<https://documents.coastal.ca.gov/assets/cdp/emergency-cdp-appl.pdf>

b. Division of Safety of Dams

- i. Jurisdiction: Work within jurisdictional dams
- ii. Activity/Trigger: Immediate work to repair, or prevent compromising a dam
- iii. [Division of Safety of Dams \(ca.gov\)](#)
- iv. Contact DSOD: [\(916\) 565-7868](tel:9165657868)

PROVISIONS OF DIVISION 3 OF THE CALIFORNIA
WATER CODE AFFECTING JURISDICTION OVER
DAMS AND RESERVOIRS



c. US Fish and Wildlife Services

- i. Jurisdiction: Conservation and management of fish, wildlife, plants, and their habitats for the American people.
- ii. Activity/Trigger: Activities that may impact wildlife, endangered species, migratory birds, and watercourses which serve as habitat for aquatic and terrestrial species.
- iii. USFWS has indicated that if emergency work is required to protect human life and property, the work should be performed with notification and documentation provided following the activity.
- iv. Contact: Michael Fris, Field Supervisor: (916) 414-6700 can provide guidance and further contacts.
- v. Link to permits (if directed to apply): [U.S. Fish & Wildlife Service ePermits \(servicenowservices.com\)](https://www.servicenowservices.com)



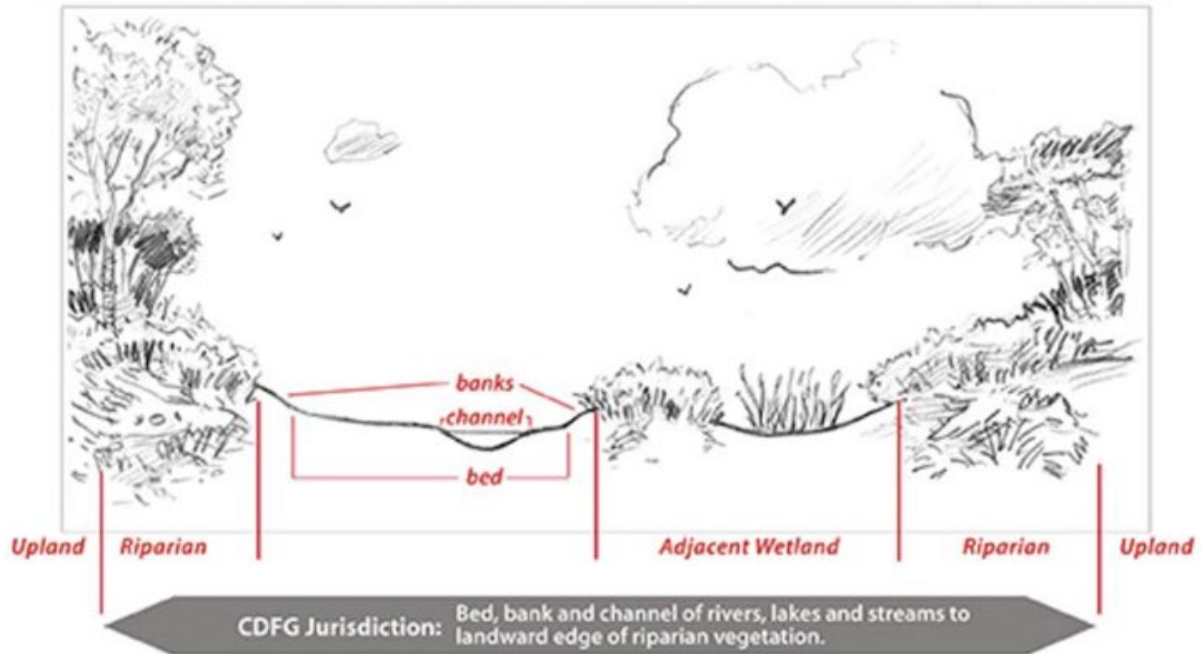
d. NMFS

- i. Jurisdiction: responsible for the stewardship of U.S. national marine resources. It conserves and manages fisheries to promote sustainability and prevent lost economic potential associated with overfishing, declining species, and degraded habitats.
- ii. Activity/Trigger: Impacts to Federally listed endangered species, marine mammals, or essential fish habitat. The presence of federally protected plant or animal species most likely will already have been revealed in a biological survey as part of CEQA compliance (see “The Big Four” section). When species are found, coordinate with USFWS or NMFS as soon as possible to redesign your project to minimize impacts on the species
- iii. Contact: Charlotte Ambrose - charlotte.a.ambrose@noaa.gov

e. CDFW

- i. Jurisdiction: Jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species in the State of California.
- ii. Activity/Trigger: Projects which impact state-protected plant or animal species, and/or lake and streambed alterations, and operations during nesting bird season.
- iii. Request for an incidental take permit needs to be required for work within watercourses and habitats if suspensions are not provided.
- iv. Contact: Elliot Chasin – elliot.chasin@wildlife.ca.gov
- v. EPIMS: Environmental Permit Information Management System (ca.gov)
- vi. Incidental take permit: <https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits>

CDFG jurisdiction includes the bed, banks and channel of lakes, rivers and streams and includes adjacent riparian vegetation.



f. US Army Corp of Engineers

- i. Jurisdiction: Work below the ordinary high-water mark (Clean Water Act Section 404), or structures within tidally influenced waterways (Rivers and Harbors Act Section 10) (e.g., coast, bay, delta, Sacramento River)
- ii. Activity/Trigger: Dredge and fill activities subject to work below the ordinary high water or ordinary high tide mark of a waterway.
- iii. Work might be carried out through an Emergency, Maintenance, or may not apply. Contact the district engineer for directions.
 - i. Los Angeles District: (213) 452-3333
 - ii. Sacramento: (916) 557-5250
 1. Redding office - (530) 223-9534
 - iii. San Francisco: (415) 503-6708
- iv. Types of permits:
 - i. Maintenance exemption under Section 404(f) of the Clean Water Act. No permit is needed for the



emergency reconstruction of recently damaged parts, of currently serviceable structures. Examples include dikes, dams, levees, riprap, causeways, bridge abutments or approaches, and transportation structures. The exemption does not cover 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 to qualify for the exemption. Note this only covers activities under Section 404 of the CWA. Although encouraged, no notification is necessary before proceeding with the work.

1. Emergency Repair and Protection). The majority of emergency activities in waters of the U.S. not covered by the exemption may be verified by the appropriate district under a Regional General Permit. The Regional General Permit structures or work in or affecting navigable waters of the United States and the discharge of dredged or fill material in WOUS for necessary repair or protection of existing structures, facilities or fills where an imminent threat to life or property exists due to unforeseen events during an emergency incident. These permits require the district be notified in advance.
 - a. Sacramento District- RGP8:
<http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/Regional-and-Programmatic-General-Permits/>
 - b. San Francisco District-RGP5:
<https://www.spn.usace.army.mil/Missions/Regulatory/Permitting/Emergency/>
 - c. Los Angeles District- RGP63:
https://www.spl.usace.army.mil/Portals/17/docs/regulatory/RGP/RGP63_Permit_19Nov2018.pdf?ver=2018-11-19-173731-523
2. Nationwide Permit 3 (Maintenance). For activities not covered under (1) and (2) above, Nationwide Permit 3 (NWP3) authorizes 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 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. NWP3 also authorizes the removal of accumulated sediments and debris in the vicinity of existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and/or the placement of new or additional riprap to protect the structure. NWP3 requires the Sacramento District be notified in advance when activities involved the removal of accumulated sediments or debris; however, we recommend notification to the district in all situations.

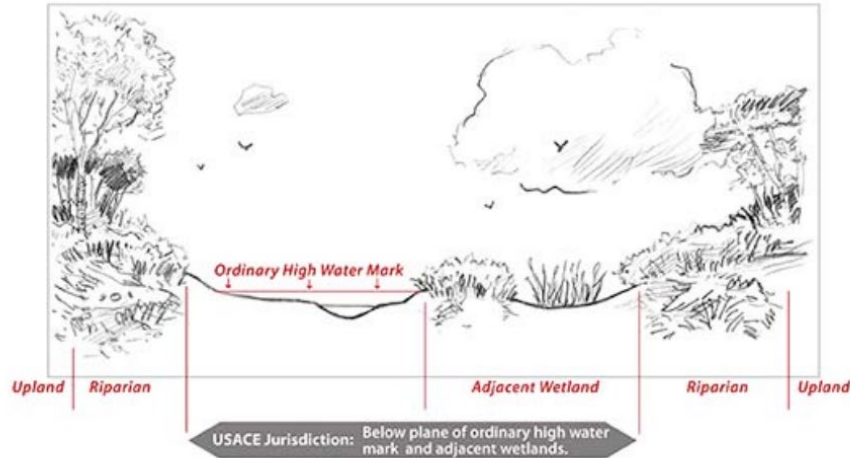
3. Emergency Procedures. In rare circumstances, activities not covered by exemption or authorized under an emergency RGP or NWP3 (or other NWP) may be processed through the Corps' Emergency Procedures. Once approved by higher headquarters, emergency procedures allow the Corps district to expeditiously make a permit decision following coordination with state and federal agencies. After the event, the Corps district issues a public notice and completes any necessary consultations. The procedures require the submission of a complete application for a standard permit to the appropriate District.

v. Contact: Michael.S.Jewell@usace.army.mil



- vi. Link to permit application (if directed to apply): [Obtain a permit application \(army.mil\)](https://www.army.mil)

U.S. Army Corps of Engineers Jurisdiction



g. State and Regional Water Boards

- i. Jurisdiction: Work below the ordinary high-water mark (Clean Water Act Section 404), or structures within tidally influenced waterways (Rivers and Harbors Act Section 10) (e.g., coast, bay, delta, Sacramento River), or otherwise not under the jurisdiction of the US Army Corps, requiring Waste Discharge Requirements.
- ii. Actions/Triggers: Dredge and fill activities subject to work below the ordinary high water or ordinary high tide mark of a waterway.
- iii. Link to permit: 401 Water Quality Certification and Wetlands Program | California State Water Resources Control Board
- iv. Other permits:
 - i. Debris Management Sites, or landfills with unsorted waste activities: [General Waste Discharge Requirements for Disaster-Related Wastes \(ca.gov\)](https://www.ca.gov)
 - ii. Construction Stormwater Permit Coverage. Coverage under the State Water Resources Control Board's General Permit for Discharges of Stormwater



Associated with Construction Activity, Order 2009-0009-DWQ (Construction General Permit, CGP) is required when a project creates a soil disturbance of one acre or more. Coverage is also required for projects with less than one acre of soil disturbance that are part of a larger plan of development that collectively disturbs one acre or more. Construction activity subject to this permit includes clearing, grading, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of a facility.

1. CGP Compliance. Compliance with the CGP requires electronic submittal of permit registration documents including a Stormwater Pollution Prevention Plan (SWPPP) prepared by a Qualified SWPPP Developer (QSD) and implemented by a Qualified SWPPP Practitioner (QSP). The CGP requires implementation, monitoring, and maintenance of adequate sediment and erosion control Best Management Practices (BMPs), and certain monitoring and reporting activities. Many California Professional Engineers have a self-certification that qualifies them as a QSD/QSP. In addition, the California Stormwater Quality Association (CASQA) has a lookup tool to find licensed QSD/QSPs. More information is available online at:
https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html. More information on US EPA standards here: National Management Measures to Control Nonpoint Source Pollution from Urban Areas, November 2005, EPA-841-B-05-004 and here: Urban Runoff: National Management Measures | US EPA
- iii. Industrial Stormwater Permit Coverage. Coverage under the State Water Resources Control Board's General Permit for Stormwater Discharges Associated with Industrial Activities, Order 2014-0057-DWQ



(Industrial General Permit, IGP) is required when a project includes certain industrial activities. In the case of post-fire debris removal and hazard tree removal, these include scrap and waste materials storage, sorting, and handling of soil, concrete, metals, vehicles, wood, and vegetation; log storage and handling associated with chipping, grinding, or sawmilling; and maintenance of vehicles and equipment. Further determination of IGP applicability should be discussed with a Regional Water Board representative identified below.

1. IGP Compliance. Compliance with the IGP requires electronic submittal of permit registration documents including a Stormwater Pollution Prevention Plan (SWPPP), implementation, monitoring, and maintenance of adequate Best Management Practices (BMPs), and certain monitoring and reporting activities. In some cases, a Qualified Industrial Stormwater Practitioner (QISP) is required to design and implement the SWPPP, perform facility evaluations, prepare response plans, and produce reports. Many California Professional Engineers have a self-certification that qualifies them as a QISP. In addition, the California Stormwater Quality Association (CASQA) has a lookup tool to find licensed QISPs. More information is available online at:
https://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.html.

h. State Historic Preservation Officer and Tribal Considerations

- i. Jurisdiction: Work around cultural resources and likely tribal resources
- ii. Activity/Trigger: Ground disturbing activities, and demolition, rehabilitation of historic buildings.
- iii. Links:



- i. Department of Parks and Recreation: [State Historic Preservation Officer \(SHPO\) \(ca.gov\)](#)
 - ii. Tribes: [California Native American Heritage Commission](#)
- i. **CA Air Resources Control Boards/Air Quality Management District**
 - i. Jurisdiction: Regional air districts
 - ii. Activity/Trigger: Work involving equipment and work around asbestos
 - iii. Links:
 - i. [Contact Us | California Air Resources Board](#)
 - ii. [National Emission Standards for Hazardous Air Pollutants Compliance Monitoring | US EPA](#)
- ii. **Department of Toxic Substances Control**
 - i. Jurisdiction: Hazardous waste handling
 - ii. Activity/Trigger: Transport and handling of hazardous wastes
 - iii. Contact: Brian Abeel - Brian.Abeel@dtsc.ca.gov
 - iv. Links:
 - i. [Contact Us | California Air Resources Board](#)
 - ii. [National Emission Standards for Hazardous Air Pollutants Compliance Monitoring | US EPA](#)
- iii. **CalRecycle**
 - i. Jurisdiction: Resource Conservation and Recovery Act
 - ii. Activity/Trigger: Transport and handling of classified wastes
 - iii. Links: [Disaster Recovery - CalRecycle Home Page](#)
- iv. **CalFire**
 - i. Jurisdiction: Timber Harvest Activities in the Timber Management Zone
 - ii. Activity/Trigger: Timber harvest activities
 - iii. Links:
 - i. [Utility ROW Exemption](#)
 - ii. [Emergency Notice](#) - for work in the Watercourse and Lake Protection Zone, or near cultural, or tribal resources.
- v. **Additional permitting guidance and trigger checklists:**
 - i. [Environmental and Historic Preservation \(EHP\) | California Governor's Office of Emergency Services](#)
 - ii. <https://www.fema.gov/disaster/4683>