

If transportation infrastructure is damaged due to any type of emergency (e.g., flood, hurricane, fire, crash, etc.), the priority is to repair the infrastructure so that it is safe for the traveling public. **No permission from any agency is required to conduct repairs in an emergency. Any agency coordination or permitting can happen after the emergency is addressed.**

Immediately following any emergency, you can expedite review and coordination by creating a list of locations, and what emergency repairs are planned, as this information becomes available. A Google earth location (.kmz/.kml) or GPS coordinates and photos are helpful, if they are available. ENV Natural Resources staff are available to review and assist with reporting, agency coordination, and after-the-fact permitting, as needed. Request assistance from your assigned biology or water subject matter experts or by reaching out to ENV-NRM@txdot.gov.

Completion of the steps below are not required to record a CE determination in ECOS per *Environmental Guide Volume 1, Chapter 14, How to Use the Expedited Emergency Open-Ended (d) CE*. The documentation and reporting/consultation discussed below may occur either before or after an emergency CE is recorded in ECOS.

When possible for each location:

- Apply standard best management practices and avoidance and minimization measures to the extent practicable:
 - Use temporary erosion and sedimentation controls to protect water quality and prevent erosion.
 - Minimize disturbance and vegetation clearing to just the area needed for the repair.
 - Avoid or minimize work in water. If work must occur in water, allow water to continue to pass through the area.
 - Avoid impacting or destroying active bird nests where possible.
- Document damage and repairs with photos or on as-built plans
- Evaluate all standard notification/permitting/coordination triggers:
 - Federal or State-listed species (potential habitat, or critical habitat),
 - waters and wetlands, and,
 - any other regulated resources (mussels/aquatic resources, migratory birds, etc.).
- Work through notification and permitting by agency as noted below.

US Fish and Wildlife Service

- When practicable to do so, use standard species analysis methods to the best of your ability (see Instructions: Preparing a Species Analysis Spreadsheet from the ENV Toolkit) to determine if there is known occupation, designated critical habitat, or assumed potential habitat for federally listed species where emergency repairs will occur. ENV biology subject matter experts are available to assist (ENV-Bio@txdot.gov).
- When practicable to do so, assess emergency repair area for birds and active bird nests protected under the Migratory Bird Treaty Act (MBTA).
 - If no federally listed species, designated critical habitat or MBTA bird species are present or assumed present, no notification or other coordination with USFWS is required.

- If federally listed species, designated critical habitat or MBTA bird species are present or assumed present, determine if there may be impacts to listed species or critical habitat.
 - ♦ If no impacts are expected, document the determination and justification; no notification or other coordination with USFWS is required.
 - ♦ If impacts are likely, work with your assigned ENV Biologist to notify the USFWS Texas Transportation Liaisons via email as soon as possible as this contact initiates informal emergency consultation.
 - ♦ USFWS will offer any recommendations possible to minimize the effects of emergency response actions on listed species or critical habitat that should be followed unless doing so hinders emergency response or creates a threat to human safety.
 - ♦ Informal coordination with USFWS should continue as needed and as events allow, for the duration of the emergency.
 - ♦ USFWS will not interfere with response efforts during the emergency.
 - ♦ Document and retain all communication with USFWS.
- TxDOT is responsible for monitoring emergency response actions to determine if adverse impacts occur and documenting any take of federally listed species, adverse modification of designated critical habitat, or take of migratory birds.
 - If listed species or critical habitat are adversely impacted, district environmental staff must request initiation of formal consultation with the USFWS pursuant to section 7 of the Endangered Species Act through ENV. This may be done prior to beginning the work if time allows. However, if the work must be done prior to initiating consultation, then the consultation may be initiated after work has begun, or even after the work has been completed and the emergency is under control (i.e., retroactive consultation).

The following information must be included in the request for initiation of formal consultation with USFWS:

- ♦ A description of the emergency, including the impact of the event (e.g., road or bridge destroyed) and species potentially affected
 - ♦ Justification for the expedited consultation, including imminent threats to life or property; why normal time frames are unworkable; and any special limitations or conditions that may affect the conservation status of the species; and
 - ♦ A Biological Assessment containing an evaluation of the response to and the impacts of the emergency on affected species and their habitats, documentation of how USFWS recommendations were implemented, and the results of implementation in minimizing take of listed species.
- If take of birds protected under MBTA occurs during emergency repairs, document the take, and work with your assigned ENV Biologist to report take to the USFWS Texas Transportation Liaisons via email as soon as possible.
 - ♦ Document and retain all communication with USFWS.

US Army Corps of Engineers (USACE)

- Emergency repairs and reconstruction of the following are exempt from USACE permitting, if they were in service prior to the emergency: bridges, abutments, approaches, and other transportation structures; dikes; dams; levees; groins; riprap; breakwaters; and causeways. (33 CFR § 323.4)

- The exemption does not include any modification that changes the character, scope, or size of the original fill amount in the WOTUS.
- Emergency reconstruction must occur within a reasonable period after damage occurs to qualify for this exemption (typically within one year).
- The following are also exempt from USACE permitting: removal of sandbars, gravel bars, or other similar blockages within WOTUS formed during flood flows or other events, that constrict previously existing drainageways and, if not promptly removed, would result in damage to or loss of infrastructure.
 - Emergency removal does not include enlarging or extending the dimensions of, or changing the bottom elevations of, the affected drainageway as it existed prior to the formation of the blockage.
 - Removal must be accomplished within one year of discovery of such blockages to be eligible for exemption.
- If emergency repairs result in additional fill in a WOTUS that is not exempt from USACE permitting as described above, then estimate and quantify impacts to the WOTUS to the best of your abilities. ENV Water Subject Matter Experts are available (ENV-water@txdot.gov) to assist with consideration of all available permitting options, typically in the following order:
 - Non-reporting Nationwide Permit (NWP):
 - ♦ NWPs 3, 13, and 14 offer non-reporting permit options that can be used for temporary impacts and stream channel modification (NWP 3 and 14), including debris removal (NWP 3), temporary detours (NWP 14), and bank stabilization (NWP 13).
 - ♦ No notification or other coordination with USACE is required to use a non-reporting NWP; however, the NWP-specific requirements, thresholds, and all General Conditions and Regional Conditions for Texas apply, so please review these carefully.
- Expedited PCN
 - An expedited PCN provides authorization from the USACE quickly, so work can begin. Expedited PCNs are preferable to after-the-fact permitting (see below) because after-the-fact permitting is handled more like a Standard Individual Permit than a PCN.
 - All General Conditions and Regional Conditions for Texas apply.
 - Mitigation may be required.
 - If you are requesting an expedited PCN, please reach out to the following USACE points of contact to make that request:
 - ♦ USACE Galveston District – Sean Dillard, Sean.M.Dillard@usace.army.mil, 409-766-6315
 - ♦ USACE Fort Worth District – Jennifer Walker, Jennifer.R.Walker2@usace.army.mil, 817-584-2634
- After-the-fact Permit
 - An after-the-fact permit is required when emergency repairs within WOTUS that cannot be covered under a non-reporting NWP must occur prior to receiving authorization from the USACE.
 - After-the-fact permits must be coordinated individually (location by location) as soon as possible after the emergency repairs, with the USACE contacts listed above.

Texas Parks and Wildlife Department (TPWD)

- When practicable to do so, use standard species analysis methods to the best of your ability (see [Instructions: Preparing a Species Analysis Spreadsheet](#) from the ENV Toolkit) to determine if there is known occupation, or assumed occupied habitat for state-listed species where emergency repairs will occur. ENV Biology Subject Matter Experts are available (ENV-Bio@txdot.gov) to assist.
- Also consider the presence of other non-state listed species protected by TPWD including birds, bats, and any perennial waters or grouped streams that may be habitat for fish, mussels, and other aquatic species, as these species are protected under different sections of TPW Code.
 - ♦ If no TPWD protected species are known or assumed to be present, no notification or other coordination with TPWD is required.
 - ♦ If TPWD protected species are known or assumed to be present, determine if there may be impacts to these species due to emergency repairs.
 - ♦ If no impacts from emergency repairs are expected, document and retain the determination and justification; no notification or other coordination with TPWD is required.
 - ♦ **If impacts to TPWD protected species are likely due to emergency repairs, work with your assigned ENV Biologist to notify the TPWD Texas Transportation Liaison via email as soon as possible.**
 - If impacts will include aquatic species, also include the appropriate [TPWD Kills and Spills Biologist](#) in the communication.
 - TPWD also maintains a 24-hour Communications Center (512) 389-4848 for emergency notification.
 - ♦ Informal coordination with TPWD should continue as needed and as events allow, for the duration of the emergency.
 - ♦ Document and retain all communication with TPWD.



Appendix A: Revision History

The following table shows the revision history for this guidance document.

Revision History	
Effective Date Month, Year	Reason for and Description of Change
August 2025	Version 1 published.