



Emergency Project Guidance - Environmental

Guidance for Wisconsin Department of Transportation (WisDOT) Environmental Staff regarding compliance with State and Federal Environmental Laws and documentation needed for the compliance with the National Environmental Policy Act (NEPA) or the Wisconsin Environmental Policy Act (WEPA).

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Wisconsin Department of Transportation
Bureau of Technical Services
Environmental Services

1.0 Introduction

This document is intended as a reference tool to assist WisDOT environmental staff with:

- Environmental coordination with internal and external partners
- Compliance with State and Federal Rules and/or Laws
- Environmental Documentation requirements

2.0 Emergency Projects Defined

The clearest definition of an emergency is when a situation is declared an emergency by the State Governor or by the President under the Stafford Act, which provides the legal authority for the Federal Government to provide assistance to States and local public agencies during declared emergencies. The source and context of a situation are also key components when determining whether or not an emergency situation is present. Roadways and bridges that are seriously damaged as a direct result of a natural disaster or other catastrophic event (e.g., civil unrest, terrorist attack) occurring over a wide area can be considered emergencies.

If emergency situations involve immediate threats to public health or safety, or immediate threats to property, including natural resources, repair work can start as soon as possible with the environmental reviews occurring concurrently/afterward. All other repairs (i.e., permanent restoration) require the completion of environmental reviews prior to the start of permanent repair work.

Facilities damaged by vehicle collisions may be coordinated as emergency projects, though they would not be eligible for funding under FHWA's ER program and would not be eligible for accelerated project schedules discussed in this agreement unless there is an immediate threat to public health as discussed above.

WisDOT must still comply with NEPA/WEPA and other environmental requirements. Agencies should recognize that the means for compliance are different in emergency situations depending on the type of repair work and the source of funding. As soon as an emergency arises WisDOT should consult with relevant federal and state agencies to ensure all compliance needs are met as quickly as possible.

Additional information regarding the Emergency Relief program timelines related to funding and emergency declaration definitions can be found on the WisDOT website at the following link.
<https://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/highway/relief.aspx>

3.0 Emergency Project Categories

Emergency projects are broken down into three main categories based on the urgency of the project. Differences for State versus Federal funding will be discussed in separate sections in this document as needed.

3.1 – Concurrent Coordination Projects

- This coordination category is not likely to be used in most cases and must be reserved for the most extreme events.
- Limited to activities that must be taken to prevent imminent loss of human life or property.
- Generally, these actions occur within the first 7 days of the emergency. This includes minimizing the extent of the damage, protecting remaining facilities, or restoring essential traffic, though some of these activities may occur later and would fall into the project categories below.
- These actions should only repair the facility to a functional condition similar to the pre-existing facility.
- Agency coordination/consultation as appropriate occurs prior to repairs when possible but is not required.
- Environmental Documentation, as required based on the scope of the repairs, should be completed concurrently with the project.

3.2 – Expedited Coordination Projects

- These actions are not needed to prevent the imminent loss of human life or property as discussed above, but generally occur within 30 days of the event.
- Agency coordination/consultation as required should take place prior to the repairs.
- Environmental documentation as required based on the scope of the repairs, should be completed prior to the repairs when possible, or concurrent with the repairs if necessary.

3.3 – Normal Coordination Projects

- For other emergency projects that don't fit the two categories above, the normal WisDOT processes for coordination and documentation for LET projects should occur. This likely happens when projects are part of State or Federal declared emergencies, but repairs will occur later in time.
- Examples include but are not limited to:
 - Project exceeds the scope of a c-listed Categorical Exclusion as defined in 771.117(c).
 - Project is likely to affect or is near sensitive resources.
 - Project will include permanent repairs with more than a minor scope of work.
 - Project will incorporate betterments or reconstructing the facility in a manner different than the original.

4.0 Region Environmental Coordinator (REC) responsibilities

Discuss emergency response procedures with region staff so everyone is aware of the appropriate rules, laws, and processes. The REC should proactively insert themselves into the emergency process at the Region. This will assist in identifying who at the Region you need to coordinate with and let them know to contact you immediately when an emergency occurs. REC's should also try to accompany maintenance staff on field visits to assist in collecting data necessary for agency coordination and environmental documentation.

The Emergency Relief checklist is required to be completed by the maintenance staff. REC's can also use this checklist to help track coordination and environmental documentation by adding their own columns to the spreadsheet. The checklist is available on the WisDOT Emergency Relief website. <https://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/highway/relief.aspx>

Coordinate with staff gathering information on the emergency incidents to prepare information for agency coordination and completion of the environmental document. The REC is usually responsible for facilitating coordination with other agencies. The information should contain:

- Date(s) the event occurred.
- A list of work that needs to be completed immediately (usually within the first week) versus later in time with permanent repairs. Include justification for immediate repairs when appropriate.
- Location maps or site locations loaded into Google Earth, ArcGIS or other mapping software to share with other agencies
- Detailed descriptions of the repair(s)
- Resources impacted by the emergency event and/or that could be impacted by the repairs
- Photos (dated), before, during and after with description
- Any improvements or upgrades that are proposed

If you have questions talk to your BTS-EPDS liaison or Region Emergency Specialist.

5.0 Agency and Tribal Coordination

Coordination requirements with agencies may vary depending on the incident or situation. Always complete coordination as soon as possible to identify potential impacts that may occur during construction. Tribal coordination as part of cultural resources is covered in section 5.1, emergency projects located on Tribal Lands is discussed in section 5.4 below.

5.1 State Historical Society and Tribal Historic Preservation Offices

5.1.1 Concurrent Coordination Projects

Immediate rescue and salvage operations conducted to preserve life or property are exempt from the provisions of section 106 on the National Historic Preservation Act as defined in CFR 800.12(d). Similar processes are in place for state projects coordinated under State Statute 44.40.

This coordination category is not likely to be used in most cases and must be reserved for the most extreme events. While no formal documentation is required for projects in this category, be sure to inform the WisDOT Cultural Resources Team (CRT) as soon as possible so they can confirm that no additional coordination is required.

5.1.2 Expedited Coordination Projects

Provide location and work descriptions to the CRT within 7 days of the event or emergency declaration. Information should be entered in the following folder on BOX.

<https://wisdot.box.com/s/domquyxhei3qufgv2mnfepzbo5hrr49g>

Coordinate with CRT to determine if work can proceed prior to obtaining a response from the State Historic Preservation Officer. Repair work must be complete within 30 days of emergency declaration or follow “Normal Coordination Projects” as defined below.

Tribal coordination with the Tribal Historic Preservation Officer(s) will be completed by CRT as needed.

5.1.3 Normal Coordination Projects

Follow the standard process for other WisDOT LET projects as described in Chapter 26 of the Facilities Development Manual (FDM). Projects with federal funding or that include a federal action follow Section 106, and State/Locally funded projects follow State Statute 44.40.

5.2 Wisconsin Department of Natural Resources (DNR) Coordination

DNR coordination is the same regardless of funding source or emergency declaration. Be sure to document all coordination with the DNR for use in the environmental document. Emergency project coordination requirements are not the same as the requirements for routine maintenance projects.

5.2.1 Concurrent Coordination Projects

Reach out to the DNR Transportation Liaison as soon as possible to start the coordination process. DNR staff should be invited on field reviews to discuss scope of the repairs and immediate erosion control needs. Coordination prior to the repairs is not required for projects activities that must be taken to prevent imminent loss of human life or property but is highly encouraged when possible. After the fact coordination needs to occur as soon as possible. This coordination category is not likely to be used in most cases and must be reserved for the most extreme events.

5.2.2 Expedited Coordination Projects

Reach out to DNR Transportation Liaison as soon as possible to start the coordination process. Coordination prior to the repairs should be completed when possible. DNR staff should be invited on field reviews to discuss scope of the repairs and erosion control needs. Consultation with DNR should at a minimum include scope of the repairs, timeline for completing the work, erosion control, threatened and endangered species concerns, and the need for mitigation. A response from DNR is required prior to proceeding with repairs. DNR will often expedite reviews based on the urgency of the repair project.

5.2.3 Normal Coordination Projects

Coordination needs to follow the normal process as any project going through the WisDOT project letting process as explained in the DNR/WisDOT Cooperative Agreement.

5.3 U.S. Fish and Wildlife Service (FWS)

5.3.1 Concurrent Coordination Projects

For projects that require an emergency response/repair to protect human life and property resulting from situations involving acts of God, disasters, casualties, national defense, or security emergencies etc. (50 CFR 402.05), FWS should be contacted as soon as feasible (Preferably within 48 hours) through the process described below in 5.3.2 to fulfill Endangered Species Act responsibilities. Consultation is not required to be complete prior to repairs on these projects. Repairs should not be delayed waiting for a response from FWS but consultation must be completed as soon as possible. This coordination category is not likely to be used in most cases and must be reserved for the most extreme events.

5.3.2 Expedited Coordination Projects

Repairs that will be completed later in time and are not essential to protect human life or property should attempt to follow the standard consultation process. FWS must be contacted prior to commencing work through the process described in below.

FWS Contact Method:

Send an email to Darin Simpkins at Darin_Simpkins@fws.gov (or current contact) providing the following information:

- o project location description and map*
- o brief description and date of event of triggering emergency response*
- o description of the emergency response action (if already completed under 5.3.1 or to be completed) and timelines*
- o IPaC Official Species List*

FWS will respond with recommended actions that may be implemented to minimize the impacts to any listed species or critical habitat in the area. These actions should be incorporated when feasible.

WisDOT will notify FWS what conservation measures it was able to implement during the emergency response and if the response resulted in any incidental take or adverse modification of critical habitat. If neither occurred, FWS provides a written response, concluding informal consultation. If incidental take and/or adverse modification of critical habitat occurred as a result of the emergency response/repair, WisDOT notifies FWS and initiates the formal consultation process.

5.3.3 Normal Coordination Projects

Coordination with FWS is required using the same process as any project going through the WisDOT project letting process as described in FDM Chapter 24-10.

5.4 U.S. Army Corps of Engineers (USACE)

Reminder - USACE authorizations are not valid until the project proponent obtains a Clean Water Act Section 401 water quality certification or waiver from the appropriate water quality certifying agency. That agency is generally the DNR unless working within the exterior boundaries of a Native American Reservation. The Environmental Protection Agency and some tribes have issued Section 401 WQC letters for the Transportation Regional General Permit (TRGP) and Nationwide Permits (NWP).

5.4.1 Concurrent Coordination Projects

First determine if the emergency response/repair work requiring Section 404/10 coverage can

be completed under the TRGP or a NWP without the need to submit a pre-construction notification (PCN aka application) to USACE. If a PCN is not required, document the decision in the project file and continue with the project.

If a PCN is required or the proposed work is outside of the scope of the TRGP or NWP, coordination with USACE is required. If the emergency repair response meets the USACE definition of “emergency”, which is 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 corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures (33 CFR 325.2 (e)(4)), then contact the appropriate USACE office via phone as soon as possible. Follow up with an email to provide the additional information listed below. USACE requires written authorization before proceeding with work. That authorization will be expedited for emergency situations.

Send a follow up email to USACE at usace_requests_wi@usace.army.mil or to the email address given during the phone call. Include “emergency” in the subject line. Provide the following information:

- *project location description and map*
- *brief description and date of event of triggering emergency response*
- *description of the emergency response action requiring Section 404/10 permit coverage and timelines*
- *urgency of work (describe why the situation is an emergency using USACE definition and explain what would happen if emergency permitting procedures are not used)*
- *summary of resource agency coordination*

5.4.2 Expedited Coordination Projects

Repairs that are not essential to protect human life or property should follow the standard Section 404/10 permitting process. If the project does not qualify as no-PCN under the TRGP or NWP, then USACE must be contacted prior to commencing work through the process described in FDM 20-50-5.

If the permit is needed quicker than the typical permitting timeline allows, an expedited review may be able to be requested if the work meets the USACE definition of “emergency” (see 5.4.1 above). If applicable, email correspondence should indicate “emergency” in the subject line, explain why the situation is an emergency using USACE definition and describe what would happen if emergency permitting procedures are not used.

5.4.3 Normal Coordination Projects

These projects follow the standard Section 404/10 permitting process (FDM 20-50-5) and coordinate with USACE as applicable, similar to any project going through the WisDOT project letting process.

5.5 Tribal Coordination

For emergency repair projects occurring on tribal owned lands, coordination is required with the Tribal Governments. Check with the Region Tribal Liaison to confirm if the project location is located on tribal

lands, and if so, the Region Tribal Liaison should be included on the emergency response team and assist with the Tribal Coordination.

5.5.1 Concurrent Coordination Projects

Reach out to the Tribal Government as soon as possible to start the coordination process. Coordination prior to the repairs is not required for projects activities that must be taken to prevent imminent loss of human life or property but is highly encouraged when possible. This coordination category is not likely to be used in most cases and must be reserved for the most extreme events.

5.5.2 Expedited Coordination Projects

Reach out to the Tribal Government as soon as possible to start the coordination process. Coordination should be initiated prior to the start of repairs. Every effort should be made to receive a response from the tribe prior to starting repair work.

5.5.3 Normal Coordination Projects

Follow the standard process for other projects occurring on tribal lands that is going through the WisDOT project letting process.

6.0 Hazardous Materials

6.1 Concurrent Coordination Projects

Hazardous materials investigations should be completed concurrently with the repairs. If closed LUST or ERP sites with Continuing Obligations exist in the project area, close coordination will be needed with WDNR Remediation and Redevelopment (RR) Program. Be aware that leaking underground storage tanks, potential toxic air emissions, chemical spills, etc. can potentially result from damage caused by emergency events. Assess the project area for these conditions and take appropriate steps to protect human health and prevent additional release to the environment.

If structure work is required, an asbestos inspection should be completed prior to repairs. Alternatively, if timing or safety concerns do not allow the structure to be inspected, it can be assumed that suspect materials contain asbestos. For projects that meet the definition of emergency projects in NR 447.02 (12), the Notice of Demolition and/or Renovation (Form 4500-113) must be submitted to WDNR as early as possible, but not later than the working day following repairs.

Any unexpected or abnormal conditions encountered during construction that may indicate the presence of a hazardous substance will be handled as a construction emergency and follow procedures outlined in the Construction and Materials Manual (CMM) 130.

6.2 Expedited Coordination Projects

Hazardous material investigations, as required based on the scope of the repairs, should be completed prior to the repairs when possible, or concurrent with the repairs if necessary. At minimum, a Phase 1 Hazardous Material Assessment and asbestos inspection (if there is structure work) should be completed prior to the repairs. If closed LUST or ERP sites with Continuing Obligations exist in the project area, close coordination will be needed with WDNR Remediation and Redevelopment (RR) Program. If required, the Notification of Demolition

and/or Renovation (Form 4500-113) must be submitted to WDNR at least ten working days prior to repairs.

6.3 Normal Coordination Projects

Hazardous materials investigations must be completed prior to repairs. Follow the normal project process as any project going through the WisDOT project letting process as described in FDM Chapter 21 and CMM 130.

7.0 Environmental Documentation

Early in an emergency event it may not be clear whether federal funds will be utilized on the project. It's best to assume that federal funding will be used and proceed with NEPA documentation until it is clear that state only funding will be used and therefore WEPA documentation will be prepared.

7.1 Concurrent Coordination Projects

Environmental Documentation, as required based on the scope of the repairs, should be completed concurrently with, or immediately following the repairs. Work should not be delayed waiting for approval. This coordination category is not likely to be used in most cases and must be reserved for the most extreme events.

7.2 Expedited Coordination Projects

Environmental documentation as required based on the scope and funding type of the repairs should be completed prior to the repairs when possible, or concurrent with the repairs if necessary. When possible, the document should be approved before proceeding with work.

7.3 Normal Coordination Projects

Environmental documentation must be completed prior to repairs. Follow the normal process as any project going through the WisDOT project letting process as described in FDM Chapter 20.

The current version of the environmental document templates can be found on the Environmental Services Website. <https://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrces/environment/formsandtools.aspx>