

17 July 2002

CESWD-CMO-E (1145)

MEMORANDUM FOR

Commander, Fort Worth District
Commander, Galveston District
Commander, Little Rock District
Commander, Tulsa District

SUBJECT: Southwestern Division Emergency Section 404/10 Permit Authorization Procedures

1. Reference Final Rule for Regulatory Program of the Corps of Engineers, 33 CFR 320-330, 13 November 1986.
2. The purpose of this memorandum is to update emergency procedures for the Southwestern Division as described in 33 CFR 325.2(e)(4) of the referenced rule.

a. Prior to use of emergency procedures, alternative means for authorizing the work should be considered. For example, exemptions for certain types of emergency work are provided for in 33 CFR 323.4. The nationwide permits authorize certain types of work that may be necessary in emergency situations. Letters of permission or regional general permits may also provide for more timely permit decisions necessary for emergency work.

b. The requesting district office should have sufficient knowledge of a particular situation to determine if a true emergency exists, or if an applicant is attempting to avoid normal permit review procedures. An emergency situation is one that meets the definition contained in 33 CFR 325.2(e)(4). An emergency situation necessitates that work be performed near the time of the cause and/or discovery of the problem or need. Actions that require several months to plan and/or fund are not considered emergencies for purposes of the Regulatory Program.

c. The district must make an effort to coordinate with the appropriate state and Federal agencies and obtain their comments on the project prior to requesting authorization for emergency procedures from the Southwestern Division. However, as described in 33 CFR 325.2(b)(ii), if a certifying agency does not respond to a valid request within a specified timeframe, the district engineer may consider the certification waived. It is equally important to complete an environmental assessment, a decision document and a public notice on the action(s) as soon as possible after a decision on the emergency procedures request has been made. The district completes and files these documents.

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3. The enclosed procedures are to be used when requesting expedited review in emergency situations. To expedite Southwestern Division approval or disapproval of the use of emergency procedures, it is essential for the district to provide complete and accurate information on the project. In addition, the district must provide a brief discussion of the consequences of denial of the emergency procedures request.

Signed

Encl

ROBERT CREAR
Colonel, EN
Commanding

CF (w/encl):
CECW-OR
CESWD-RM
CESWF-PER-R
CESWG-PE-R
CESWL-PR-R
CESWT-PE-R

SOUTHWESTERN DIVISION GUIDELINES FOR REQUESTING USE OF EMERGENCY
PERMIT PROCEDURES ON SECTION 404 AND 10 PERMIT ACTIONS

1. The following information is required for each emergency permit request and must be sent to CESWD-CMO-E by the requesting District prior to Division approval.

- a. Name of Applicant.
- b. Location of Work: Provide a vicinity map, marking the location of the project.
- c. Description of the Work. Provide a description of the project and a sketch, if possible.
- d. Cause of Emergency. Describe when and how the emergency situation occurred.
- e. Urgency of Work. Explain what will happen if emergency procedures are not used.
- f. Time to Complete the Emergency Work. Estimate when the work will begin and how long it will take to complete the work.
- g. Coordination. Attempt to contact the appropriate Federal and state agencies and provide a summary of each agency comments on the emergency work. If the District recommended action differs from an agency's comments, the District needs to provide an explanation.
- h. Recommended Action. Provide recommendations on the procedures to be used and how these procedures differ from normal permit review procedures.

2. During normal working hours, requests for use of emergency permit procedures, including the information in paragraphs 1a-1h above, will be faxed or e-mailed to CESWD-CMO-E. The District should notify CESWD-CMO-E by telephone (214-767-2436, 767-2457, or 767-2425) of the pending request. Following Division review of the request by the Chief of Operations Division, the District will be advised by telephone whether emergency procedures have been approved for the work. This verbal notification will be followed by written confirmation signed by the Director of the Civil Works and Management Directorate.

3. During non-workdays and after normal business hours, emergency authorization requests will be made by telephone, if necessary. The project information outlined above will be provided verbally and the Division representative contacted will make a decision made based on that information. On the next workday, the District will fax the required information to the Division, 214-767-9021, to the attention of CESWD-CMO-E. The Division will confirm its decision as outlined in paragraph 2, above.

4. For emergency authorization requests after work hours and on non-workdays, the district should contact Division staff in the following order until a response is received:

Mr. Gary Loew, Acting Director, Directorate of Civil Works and Management Directorate, home phone 817-545-5379.

Mr. Tom Hudspeth, Chief Business Management Office, home phone 817-226-3986.

Mr. Ron Timmermans, Acting Chief Operations Division, cell phone 817-312-7464

Ms. Vicki Dixon, Regulatory Program Manager, home phone 817-860-8564.

Mr. James Gilmore, Regulatory Program Appeal Review Officer, home phone 972-938-7710.



MEMORANDUM

TO: District Engineers
Zane L. Webb, P.E.
Thomas R. Bohuslav, P.E.

DATE: March 21, 2007

A handwritten signature in black ink, appearing to be "D. Noble".

FROM: Dianna F. Noble, P.E.

SUBJECT: U.S. Army Corps of Engineers Emergency Procedures (USACE)

This memorandum provides revised Emergency Procedures and an updated Emergency Contacts List to the Environmental Affairs Division (ENV) memo entitled "**Emergency Procedures associated with U.S. Army Corps of Engineers permits**" of January 8, 2002.

The January 8, 2002, memo outlines the procedures and contacts in the event that an emergency situation has been identified that will require a USACE permit. ENV personnel recently discussed the emergency procedures with representatives from the Dallas, Fort Worth, Tulsa and Galveston offices of the USACE. In order to facilitate an emergency situation it was suggested that TxDOT revise the Emergency Procedures and update the Emergency Contacts Listing to the January 8, 2002 memo and follow when notifying the USACE of emergency situations.

ENV has revised and updated both the Emergency Procedures (**Attachment 1**) and the Emergency Contacts List (**Attachment 2**). Please note that the USACE primary contact for each USACE District office is the Chief of their Regulatory Branch. Also note that the primary contact for TxDOT is the ENV Division Director. The USACE suggests that making the contact at this level will expedite emergency situations. The USACE has brought it to our attention that most regulatory specialists in the USACE Permits Section have never processed an emergency permit and therefore are unfamiliar with the process.

Both the January 8, 2002 memo and the Emergency Procedures direct the "appropriate district representative" to immediately contact the "appropriate USACE District contact using the Emergency Contacts List." The Emergency Procedures have been revised to instruct the TxDOT District Engineer contact the ENV Division Director and the ENV Division Director to contact the appropriate USACE District Chief, Regulatory Branch. If the USACE concurs that an emergency situation exists and that an emergency permit is the most expeditious way to proceed, the appropriate TxDOT District representative shall work with the appropriate USACE District personnel to obtain appropriate authorization.

Attachments

cc: Administration

Attachment 1 - Emergency Procedures

TxDOT Districts shall follow the steps below to streamline USACE permit authorization and expedite TxDOT response to emergency situations.

1. Determine if an emergency exists or potentially exists.

Use the USACE definition of *emergency* to determine if the subject project is deemed an emergency and if work necessary to remedy the situation would require permitting by the USACE. As defined in 33 CFR 325.2 (e)(4), an emergency 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."

2. Make initial contact with the USACE, ENV and FHWA.

After TxDOT District personnel has determined the situation is an emergency under the USACE definition, the District Engineer or the Transportation Planning and Development Engineer shall immediately contact the ENV Division Director or the ENV alternate contact (see Emergency Contacts List , Attachment 2). The ENV Division Director or ENV alternate contact shall immediately contact the appropriate USACE District Chief, Regulatory Branch. The TxDOT District shall also contact the Federal Highway Administration (FHWA). The EPA shall be notified by the ENV Division Director or ENV alternate contact when appropriate. **To expedite the process, all initial contacts should be made by telephone.**

Note: The USACE may determine that emergency work be quickly permitted by an alternative permitting procedure, e.g., letter of permission or general permit that would require minimal or no additional information or coordination.

3. Provide written documentation to the USACE.

The District shall follow-up the initial telephone contact as soon as possible with written documentation (via fax) to document the emergency and to provide required information to the appropriate USACE District office. Copy ENV on **all** documentation. The following **minimum** information shall be submitted to the USACE:

- Name of applicant
- Location of work (vicinity map showing location)
- Description of work/project including basic dimensions and drawing. The drawings may be approximations and do not have to be to scale or be detailed engineering drawings.
- Cause of emergency (describe when and how the emergency occurred)

- 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)
- Time needed to complete emergency work (estimate beginning and end date). **Note:** If the work would not be initiated for several months, it may not be considered an emergency by the USACE.
- Summary of resource agency coordination. Attempt to contact, and describe any coordination with, federal and state resource agencies, including at a minimum the EPA, the U.S. Fish and Wildlife Service, the Texas Commission on Environmental Quality, the Texas Parks and Wildlife Department, and the Texas Historical Commission. In coastal areas, the National Marine Fisheries Service and the Texas General Land Office also need to be contacted. Provide a summary of each agency's comments on the proposed work. **Note:** An alternative permitting procedure may only require coordination with some of the resource agencies listed above. However, be sure to follow case-by-case guidance provided by the USACE.

4. Wait for USACE evaluation and authorization.

USACE will evaluate the information provided by the TxDOT District and proceed under an alternative permitting procedure, if appropriate, or an emergency procedure if an alternative procedure does not apply. If an emergency procedure is followed, the TxDOT District should proceed according to USACE direction in providing additional information or taking immediate action, as necessary. Once the USACE receives adequate information, it will develop the final emergency permitting procedure and issue the permit, normally within one day. The TxDOT District must ensure that the work requiring USACE authorization does not commence until the USACE provides such authorization.

In summary, the TxDOT District Engineer or Transportation Planning and Development Engineer shall immediately contact the ENV Division Director or the ENV alternate contact upon determination of an emergency that would require USACE permitting. The TxDOT District shall follow-up with appropriate written documentation to the USACE and copy ENV on all documentation. The TxDOT District and/or ENV will contact or coordinate with all concerned parties (i.e., EPA, FHWA, resource agencies) as appropriate. The USACE will evaluate and authorize work. The TxDOT will then commence work immediately upon authorization.

*If an emergency arises after normal business hours, please see the Emergency Contacts List for the appropriate contact after normal business hours.

Attachment 2 - Emergency Contacts List

Galveston District USACE

- Primary Contact: Chief, Regulatory Branch (409) 766-3930 (currently Fred Anthamatten)
- Alternate Contact : Chief, Policy Analysis Section (409) 766-3943 (currently Casey Cutler)
- *Second Alternate Contact: Chief, Emergency Management Office (409) 766-3956 (currently Gus Marinos)
- *Duty Officer cell phone (409) 939-0235
- Fax: (409) 766-3931

Fort Worth District USACE

- Primary Contact: Chief, Regulatory Branch (817) 886-1730 (currently Wayne Lea)
- Alternate Contact : Chief, Permits Section (817) 886-1740 (currently Presley Hatcher)
- *Second Alternate Contact: Emergency Management/Security Office (817) 978-9999.
- Fax: (817) 886-6493

Tulsa District USACE

- Primary Contact: Chief, Regulatory Branch (916) 669-7400 (currently David Manning)
- Alternate Contact : Project Manager (916) 669-7618 (currently Allen Ryan)
- *Second Alternate Contact: Chief, Emergency Operations Center (918) 694-2230 (currently Pete Navesky)
- Fax: (918) 669-4306

Albuquerque District USACE

- Primary Contact: Chief, El Paso Regulatory Branch (915) 568-1359 (currently James E. Mace); Fax: (915) 568-1348
- Alternate Contact : Chief, Regulatory Branch (505) 342-3282 (currently Don Borda)
- *Second Alternate Contact: Chief, Emergency Operations Center (505) 275-3045 (currently Don Soards)
- Fax: (505) 342-3498

Federal Highways Administration (512) 536-5900

- Primary Contact: Area Engineer
- Alternate Contact: District Engineer
- Fax: (512) 536-5990

TxDOT – ENV (512) 416-2734

- Primary Contact: Division Director (currently Dianna Noble, P.E.)
- Alternate Contact: Director Natural Resources Management (currently Mary Perez)
- Second Alternate Contact: TxDOT USACE Liaison (currently Erin Foster)
- *After hours, the Division Director may be contacted at (512) 280-0587
- Fax: (512) 416-2746

EPA (EPA should only be contacted if the situation is the result of an enforcement case and EPA has assumed enforcement responsibility.)

- Primary Contact: Chief, Marine and Wetlands Section, Region 6 (214) 665-7145 (currently Sharon Parrish)
- Secondary Contact: Wetlands Enforcement Coordinator, Marine and Wetlands Section (214) 665-8331 (currently Tom Nystrom)
- Fax: (214) 665-6689

* Use this contact after normal business hours.