

# Section 404 compliance for WSDOT emergency projects

November 2022

## Follow these instructions for declared emergency projects that involve work in waters under the Corps jurisdiction.

Check with your Corps liaison if you think the work may be [exempt](#) from Section 404 permit requirements.

If the work can be covered under a non-reporting Nationwide Permit (a Pre-construction Notification [PCN] isn't needed), you do not need to notify the Corps of the project. A project may be non-reporting if there is no effect for ESA/EFH, and 106.

Use the [Wetlands & other waters webpage](#) if you need help determining jurisdiction, Nationwide permit coverage, and application requirements.

## Know the Corps definition of emergency

*Federal regulations implementing the U.S. Army Corps of Engineers Regulatory Program (see 33 CFR 325.2(e)(4)) define an emergency as a situation which would result in:*

- (1) an unacceptable hazard to life,*
- (2) a significant loss of property, or*
- (3) 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.*

## When you learn about the emergency

Call the Corps. Be prepared to tell the Corps where the project is located and what work will take place in jurisdictional waters.

**To initiate contact, call a Corps permitting liaison and follow up with an email:**

- Sandra Manning, (360) 280-9262, [sandra.l.manning@usace.army.mil](mailto:sandra.l.manning@usace.army.mil)
- Susan Buis, (360) 742-7186, [susan.w.buis@usace.army.mil](mailto:susan.w.buis@usace.army.mil)
- Jenn Lang, (564) 999-1006, [jennifer.w.lang@usace.army.mil](mailto:jennifer.w.lang@usace.army.mil)
- Nicole Evans, (360) 545-2361, [nicole.t.evans@usace.army.mil](mailto:nicole.t.evans@usace.army.mil)

**If none of the liaisons answer the phone and work must start immediately, call a Corps manager:**

- Jacalen Printz – Corps Seattle District Section Chief
  - During business hours – (206) 764-6901
- Todd Tillinger- Corps Seattle District Regulatory Branch Chief
  - After hours (206) 798-4686

If the liaisons or Corps managers do not answer the phone, leave a message on their voicemail, and send an email to the liaisons at [ESOPermittingliaisons@WSDOT.WA.GOV](mailto:ESOPermittingliaisons@WSDOT.WA.GOV).

## Within 24-hours of the phone call & before starting work

As soon as the information is available, and within 24-hours of calling the Corps, use the email template below to provide the necessary details to the 404 and 401 permitting liaisons. Replace the *[italicized text]* with the details for your project.

Attach to the email:

- WSDOT's Emergency Declaration.
- Photos depicting the nature of the emergency if the liaison hasn't received them previously.
- Drawings of the proposed repair.

## Email template

To	<a href="mailto:ESOPermittingliaisons@WSDOT.WA.GOV">ESOPermittingliaisons@WSDOT.WA.GOV</a>
Cc	the Regional Environmental Manager (REM), Liaison Permitting Program Manager ( <a href="mailto:Stephanie.Jackson@wsdot.wa.gov">Stephanie.Jackson@wsdot.wa.gov</a> ), and other project staff as necessary.
Subject	Project name followed by the type of work and " <b>emergency notification</b> ". Include the permit number in the subject line if you have one.
Body	<p><b>Notifying Agency:</b> WSDOT [<i>Region/Mode</i>]</p> <p><b>Contact:</b> [<i>name, usually the REM and the coordinator</i>], [<i>phone</i>], [<i>email</i>]</p> <p><b>Location of work:</b> [<i>SR and MP</i>], [<i>County</i>], Lat [<i>Latitude</i>], Long [<i>Longitude</i>]</p> <p><b>Waterbodies in the vicinity:</b> [<i>List and describe where work is in relation. For example, "Below OHWM of River***" or "In wetland on north side".</i>]</p> <p><b>Emergency:</b> [<i>Explain what happened to cause the emergency, when, and why it is an emergency. Explain how it meets the Corps definition of "emergency."</i>]</p> <p><b>Project description:</b> [<i>Explain the scope of work, relationship of the proposed work to existing structures or fill, fill impact area, and quantity estimates.</i>]</p> <p><b>Schedule:</b> [<i>When will/did work begin, estimate when it will be finished</i>]</p>

## In response, the Corps liaison will:

1. Review the notification information.
2. Send the Services, tribes, and state agencies a request for recommendations to minimize effects from emergency response. This is separate from the notification requirements for WSDOT to the Services and coordination with tribes/state agencies. It is part of the Corps' obligations as a federal agency.
3. Initiate emergency authorization request to proceed if it meets the Corps definition of an emergency, has been minimized to reduce impact to waters, and meets the conditions of the emergency authorization.
4. Once authorization is approved, liaisons will notify WSDOT via email.

## **Working prior to authorization**

Natural and human caused events that result in sudden structural damage to transportation facilities and threaten human health and safety do not respect typical business hours or approval schedules. They may occur at times and with such significance that WSDOT cannot wait for normal authorization efforts to play out with regulatory agencies prior to conducting emergency repair work. However, if WSDOT cannot wait for formal approval from the Corps prior to conducting necessary work, WSDOT can minimize its legal risks by following this process and striving to keep work to the “minimum necessary to reduce the threat of the emergency situation” and to then report out to Region Environmental staff as soon as possible. Keep in mind to minimize removal and fill because what you do in an emergency may have to be re-done or undone after the fact; continue to coordinate while work is occurring. Work that is done prior to authorization may be tracked as an unauthorized activity within the Corps.

## **Work with the Corps to determine if permit coverage is needed After the Fact**

If required to apply for permit coverage, submit an application. For most emergencies involving bank stabilization, culvert repair/replacement, or temporary work in wetlands, use the [Maintenance Pre-construction Notification \(PCN\) form \(DOCX 58KB\)](#). If the scope of work is complex, check with the permit liaisons to see if the Maintenance PCN is appropriate or if you should use another format instead.