

Procedures Relating to DEEP Authorizations for Emergencies Declared by the Connecticut Department of Transportation Commissioner

***This document supersedes the April 18, 2012 version.**

Controlling Statutes and Current Department of Transportation Procedures

Section 13b-26(f)(2) of the Connecticut General Statutes (CGS) authorizes the Commissioner of the Department of Transportation (Department) to declare "...that an emergency condition exists on any highway in the state which demands immediate attention to insure the safety of the traveling public..." The specific type of emergency will be dictated by the immediate impact to the safety of the traveling public. The two distinct categories, as identified in the Department's Construction Manual that an emergency may fall under are as follows:

- Case 1 (Immediate Repair) - A natural disaster, structural failure, rock slide, etc., any of which require the Department, either through its own resources or contractual services, to take action by mobilizing the necessary resources as quickly as physically practical, very often within hours of the event. Work should typically begin within 30 days.
- Case 2 (Accelerated Repair) - An emergency condition which demands immediate attention to insure the safety of the traveling public. The time needed to complete construction could be governed by the need for survey and design before commencement of construction of the project. These projects are typically handled like routine projects; however the schedule for design, advertising, award, and completion is greatly accelerated. Work should typically begin within 180 days.

Once an emergency situation has been declared by the Department Commissioner, section 22a-6k(a) of the CGS authorizes the Department of Energy and Environmental Protection (DEEP) to issue emergency authorizations for activities regulated under Stream Channel Encroachments, Water Diversions, Dam Construction, Tidal, and Inland Wetlands. An emergency authorization may be granted when DEEP finds that "...such authorization is necessary to prevent, abate, or mitigate an imminent threat to human health or the environment..." and that "such authorization is not inconsistent with the federal Water Pollution Control Act, the federal Rivers and Harbors Act, the federal Clean Air Act or the federal Resource Conservation and Recovery Act." Section

22a-363d authorizes DEEP to issue emergency coastal permits in situations which may result in "...immediate, unforeseen and unacceptable hazards to life, health or welfare or significant loss of property if corrective action...is not undertaken..." Section 22a-6k(b) of the CGS authorizes the DEEP to issue temporary authorizations for certain activities regulated under general permits for Tidal (Structures, Dredging and Fill and Minor Activities), and Dam and Reservoirs (Minor Activities). A temporary authorization may be granted when DEEP finds that "...such activity will not continue for more than thirty days..." and that "such authorization is not inconsistent with the federal Water Pollution Control Act, the federal Rivers and Harbors Act, the federal Clean Air Act or the federal Resource Conservation and Recovery Act." "No temporary authorization shall be renewed more than once, and no such authorization shall be issued for an activity which has been authorized by a temporary authorization during the previous twelve months." Such emergency and temporary authorizations shall be limited by any conditions that Commissioner of DEEP deems necessary to adequately protect human health and the environment.

Procedures to Determine Appropriate Regulatory Authorization

Immediately upon discovery of any emergency situation the initiating office must call for an Emergency Determination Meeting (EDM). The purpose of which is to evaluate the impact on the safety of the traveling public, to determine the speed with which action must be taken, to evaluate the level of repair, and to determine permitting requirements. No work shall be performed to temporarily stabilize or repair a location until this meeting has been held.

A Point of Contact (POC) list shall be developed and updated as necessary to ensure that Department personnel with the ability to make pertinent decisions are present for any EDM. This list shall include methods for afterhours contact of the appropriate personnel. At a minimum a member of Maintenance, Environmental Planning, Construction, and Design must be present at any EDM. A separate POC list must be developed for each Maintenance District and updated as necessary to ensure that all Maintenance personnel are aware of the proper contacts and procedures during an emergency situation.

Procedures to Facilitate Expedited Regulatory Authorization – Case 1 Emergencies

The Department's Office of Environmental Planning (OEP) will be the lead office for any coordination with DEEP that may be required for emergency actions. The following procedures will apply to Case 1 emergencies. A Case 2 emergency will receive expedited review through OEP but will follow the normal permitting process. When an emergency situation arises, the following procedures must be followed.

As soon as any such emergency situations become known by a Department operating unit, that Department operating unit must notify a member of OEP. Once an EDM has been set up, the appropriate member of OEP will attend. Unless an immediate threat to public safety exists, no work will be performed on any emergency situation unless a member of OEP has been contacted. An emergency declaration by the Department Commissioner **does not** mean that the project does not require state and federal permits for impacts to regulated areas.

Upon learning of an emergency situation, OEP will perform a preliminary environmental assessment of the location and determine the appropriate contact at DEEP. OEP management will contact DEEP management to discuss scheduling and staffing requirements. A staff member from OEP will be assigned to coordinate between DEEP staff and the other Department operational units involved in the emergency repair. In order to facilitate rapid coordination and transmission of documents, all communication within the Department and between OEP and DEEP, including permit applications and approvals, shall be performed electronically by phone, fax, or e-mail. Paper copies of the appropriate submittals and approvals will follow once the immediate nature of the emergency has been alleviated.

In recognition of the truncated schedule required on emergency projects, the level of detail associated with the permit application and design plans is less than that submitted under normal conditions. The application for emergency authorization shall contain sufficient information to initiate a DEEP review and at a minimum include a location plan, an executive summary describing the work that will be performed, and a sketch drawing showing the nature of the repair work and the aerial impacts to any regulated locations. Emergency work will be limited to alleviating any threat to the safety of the traveling public and stabilizing the site to prevent further environmental impacts.

As much information as possible should be provided to OEP to facilitate approval from the appropriate DEEP office. For Case 2 emergencies, if immediate action is necessary to stabilize the site, an Emergency Authorization from DEEP will be obtained in the same manner as for a Case 1 emergencies. Following alleviation of any immediate danger, a full permit application will be submitted to DEEP. Regulated work shall not be performed without a permit approval or emergency authorization in place, unless no other option exists to protect public safety. The initiating office shall be responsible for ensuring that all appropriate permits are in place prior to beginning work.

If advised by the DEEP that a permit is required for any portion of an emergency action, the Department will provide, at a minimum, all of the following:

- A narrative identifying the emergency and the scope of anticipated corrective actions.
- A time frame for when the work will begin and how long it will take to complete.
- A preliminary plan drawing for such actions, including a depiction of the extent of work to take place in wetlands or watercourses. Details of the aerial impact will be given in square feet and amount of material in cubic yards.
- Any hydraulic assumptions or analyses conducted.
- The plan should be specific on the type of interim sedimentation controls and permanent stabilization to be used.
- Specific construction practices and mitigation measures to be implemented in carrying out the corrective actions will be identified through the DEEP coordination process.

The Department unit tasked with performing the emergency repairs will submit the above items and a copy of the Department's emergency declaration to OEP. Any application to DEEP for regulated activities must be completed using the best information and plans available at the time of its preparation. The application will be expeditiously processed by DEEP with the intent of issuing an appropriately conditioned permit authorizing the emergency work. If approved, the emergency authorization will contain specific terms and conditions including an expiration date. A notice of the permit application must be published in accordance with CGS Section 22a-6g. No newspaper notice is required if the activity is covered under IWRD's General Permit, but

notification letters to the town agencies are necessary as outlined under the CGS section regarding the General Permit.

An Army Corps of Engineers (ACOE) Permit may also be required if the impact exceeds 5000 square feet to an inland wetland location or in any coastal location and, if so, OEP will need to provide an ACOE category determination.

Widespread Weather Related Repairs Not Declared an Emergency by the Commissioner

In certain situations, severe weather conditions may cause widespread damage to the Department's transportation systems but not warrant an emergency declaration by the Commissioner. When this scenario occurs, special procedures must be implemented to ensure that no work occurs outside of what the Department is authorized to perform under the General Maintenance Permit. Any work that needs to occur in or adjacent to a regulated area must be coordinate with the District Drainage Engineer prior to being started. Each Maintenance Garage shall have a POC list which dictates who must be contacted in the event that storm related damage is discovered. No work shall be performed until the District Drainage Engineer has been contacted and has approved the repair.

The District Drainage Engineer will be responsible for developing a site list and determining whether the required activities can be covered under the Drainage Maintenance Permit. When the scope of proposed work exceeds the limits set in the Drainage Maintenance Permit than the District Drainage Engineer must coordinate with OEP to obtain the appropriate authorization prior to starting any regulated repair work. OEP will work with DEEP to obtain a blanket temporary authorization to perform storm repairs.

When storm repairs are required, the Drainage Engineer will be responsible for obtaining before and after pictures at each work site, aerial impact quantities for any repair work in a regulated area, and the work start and work completion dates. By no later than thirty (30) days following the storm event the District Drainage Engineer will provide this information to OEP.