

Tennessee Department of Environment and Conservation
General Aquatic Resource Alteration Permit for
Emergency Infrastructure Repair



Effective Date: April 7, 2020
Expiration Date: April 7, 2025

Activities Covered by this Permit:

This general permit authorizes stream and wetland alterations necessary to repair imminent threats to public infrastructure that may pose immediate danger to public health, safety or the environment. Where feasible, the repair should restore the resource to pre-emergency conditions. Infrastructure means any transportation corridors such as roads, railways, water courses or runways, utilities (whether public or private), and other critical structures immediately adjacent to waters of the state. This general permit is not intended to address chronic problems, or threats to structures whose failure would not present a danger to public safety or the environment.

Certain activities due to size, location or potential water quality impacts are not covered under this general permit, as described in both the Special and General Conditions sections. Activities not qualifying for authorization under this general permit may be authorized by a standard (individual) permit provided that all requirements of the *Tennessee Water Quality Control Act of 1977* (the Act) are met.

Special Conditions

1. The chief administrative officer of the utility, public works, public highway, or transportation department, or their authorized designee, shall notify the division by e-mail, as soon as practicable, but not later than 48 hours after discovery that an emergency has arisen, and indicate their intentions to make repairs in response to the emergency. Work shall not commence until the applicant has been notified by the division verbally or by e-mail that the proposed activities are conditionally approved and may proceed concurrently with the preparation of NOC application and issuance, under the conditions of this general permit, unless immediate repairs are necessary to protect immediate threats to public health, safety, or the environment.
2. Within 10 days of receiving conditional authorization from the Division, the applicant shall submit a CN-1091 application form. The application shall include details of the action taken, any remaining actions needed, and the nature of the emergency necessitating immediate repairs.
3. Emergency infrastructure repair work authorized under this general permit shall be limited to 300 linear feet of stream impact and up to 0.10 acres of wetland impact.
4. Sites with known or suspected contaminated sediments must receive authorization from the division before the emergency infrastructure repair work can begin.
5. Emergency repair work shall be limited to that necessary to remove an immediate threat to public safety, and to restore pre-emergency stream channel or wetland conditions where feasible.
6. Unless specifically necessary to abate the immediate threat to public health, safety, or the environment, channel enlargements or realignments are not authorized under this general permit.

General Conditions

1. The amount of fill, stream channel and bank modifications, or other impacts associated with the activity shall be limited to the minimum necessary to accomplish the project purpose. The permittee shall utilize the least impactful practicable method of construction.
2. All activities must be accomplished in conformance with the approved plans, specifications, data, and other information submitted in support of the ARAP application (form CN-1091) and the limitations, requirements, and conditions set forth herein. Failure to comply with the terms and conditions of this permit is a violation of the Act.
3. Activities, either individually or cumulatively, that may result in an appreciable permanent loss of resource values to streams or wetlands are not covered. This general permit shall not be used incrementally to combine with other activities resulting in a net loss of water resource values.
4. Clearing, grubbing, and other disturbance to riparian vegetation shall be kept at the minimum necessary for slope construction and equipment operations. Unnecessary native riparian vegetation removal, including tree removal, is prohibited. Native riparian vegetation must be reestablished in all areas of disturbance outside of any permanent authorized structures after work is completed. Coverage under this permit does not serve to waive any local riparian buffer protection requirement, and permittees are responsible for obtaining any necessary local approval.
5. Unnecessary widening of the stream channel as a result of this activity is prohibited.
6. This activity may not result in the permanent disruption to the movement of fish or other aquatic life upon project completion.
7. Blasting within 50 feet of any jurisdictional stream or wetland is prohibited.
8. Activities occurring in known or likely habitat of state or federally listed threatened, endangered, deemed in need of management, or species of special concern may not be authorized without prior coordination with the Tennessee Wildlife Resources Agency (TWRA) and TDEC Division of Natural Areas (DNA) to determine if any special conditions are required to avoid and/or minimize harm to the listed species or their habitat. Adverse effects to federally listed threatened and endangered species are not authorized by this permit. Permittee is responsible for obtaining prior authorization from the United States Fish and Wildlife Service (USFWS) as required by Section 7 or Section 10 under the Endangered Species Act.
9. Work shall not commence until the permittee has obtained all necessary authorizations pursuant to applicable provisions of section 10 of The Rivers and Harbors Act of 1899, section 404 of the Clean Water Act, section 26a of The Tennessee Valley Authority Act, section 402 of the Clean Water Act (including, but not limited to, an NPDES permit for construction stormwater), or any other federal, state, or local laws.
10. Backfill activities must be accomplished in the least impactful manner possible that stabilizes the streambed and banks to prevent erosion. The completed activities may not disrupt or impound stream flow.
11. The use of monofilament-type erosion control netting or blanket is prohibited in the stream channel, stream banks, or any disturbed riparian areas within 30 feet of top of bank.

12. This permit does not authorize impacts to cultural, historic, or archaeological features or sites.
13. This permit does not authorize access to public or private property. Arrangements concerning the use of public or private property shall be made with the landowner. The permittee is responsible for obtaining any additional permitting or maintenance agreements with other government or public agencies or lands.
14. Where practicable, all activities shall be accomplished in the dry. All surface water flowing towards this work shall be diverted using cofferdams and/or berms constructed of sandbags, clean rock (containing no fines or soils), steel sheeting, or other non-erodible, non-toxic material. All such diversion materials shall be removed upon completion of the work. Any disturbance to the stream bed or banks must be restored to its original condition. As approved after Division review, activities may be conducted in the flowing water if working in the dry will likely cause additional degradation. Any work conducted in the flowing water must be for a short duration and with minimal impact, and conform to the Division-approved methodology.
15. All activities must be carried out in such a manner as will prevent violations of water quality criteria as stated in TDEC Rule Chapter 0400-40-03, or impairment of the uses of waters of the state as designated by Rule Chapter 0400-40-04.
16. Erosion prevention and sediment control measures must be in place and functional before any permanent repairs begin, and shall be designed according to the department's Erosion and Sediment Control Handbook (<http://tnepsc.org/handbook.asp>). Permanent vegetative stabilization using native species of all disturbed areas in or near the stream channel must be initiated within 14 days of project completion (see also Landscaping with Natives at tnepsc.org). Non-native, non-invasive annuals may be used as cover crops until native species can be established.
17. Temporary stream crossings shall be limited to one point in the construction area and erosion control measures shall be utilized where stream bank vegetation is disturbed. Stream beds shall not be used as linear transportation routes for mechanized equipment, rather, the stream channel may be crossed perpendicularly with equipment provided no additional fill or excavation is necessary.

Obtaining Permit Coverage

Applicants proposing to perform emergency infrastructure repair in streams and wetlands shall notify the division in a two-step permitting process authorizing the emergency repair.

Step #1: Upon detection of an emergency, the applicant shall notify the division by e-mail, as soon as practicable but not later than 48 hours after discovery that an emergency has arisen, that a situation has occurred requiring immediate infrastructure repair, and detail the proposed steps to be taken. Work shall not commence until the applicant has been notified by the division verbally or by e-mail that the proposed activities are conditionally approved and may proceed concurrently with the preparation of NOC application and issuance, under the conditions of this general permit, unless immediate repairs are necessary to protect immediate threats to public health, safety, or the environment.

Step #2: Within 10 days of receiving conditional authorization from the Division, in support of written NOC issuance, the applicant shall submit the following:

1. a complete ARAP application (form CN-1091),
2. EPSC methods to be employed during emergency infrastructure repair activities,

3. list of known threatened or endangered species,
4. photographs of stream or wetland prior to work if available, or just upstream of the emergency,
5. narrative of events that lead to the emergency,
6. narrative of corrective measures taken to address the emergency,
7. BMPs that show compliance with this General Permit,
8. characteristics of repairs, including photographic documentation,
9. dimensions of all fill or excavation, including depth, width, and distance,
10. planned method of any additional work needed,
11. detailed plans for the proposed method of any stream and/or wetland remediation

Each NOC under this general permit is valid until the expiration date specified on the NOC. If the General Permit is modified, reissued, or revoked, and the permittee has commenced or is under contract to commence this activity before the expiration date, the permittee may have up to twelve (12) months from the date of the modification, reissuance, or revocation of the General Permit to complete the activity under the present terms and conditions of the general permit.

An application fee as established in Rule 0400-40-11-.02 will be assessed to applicants intending to receive an NOC to conduct activities under this general permit. An annual maintenance fee will be assessed to those individuals holding general permit coverage unless a Notice of Termination (NOT) form is received prior to the one-year anniversary of the issuance date of the NOC. An NOT form can be downloaded from the division's ARAP webpage (<https://www.tn.gov/environment/permit-permits/water-permits1/aquatic-resource-alteration-permit--arap-.html>).

APPROVED: 
Jennifer Dodd
Director, Division of Water Resources

DATE: 04/07/2020