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Key Contractor Responsibilities

Contractors are responsible for complying with environmental commitments and permits, as well as applicable federal, state, and local laws. This information can be found on the Environmental Permits, Issues, and Commitments (EPIC) plan sheet, the General Notes, and on individual plan sheets throughout the plan set. This information provides environmental guidance to the contractor. For example, it may depict areas to be avoided during demolition and/or construction, due to the presence of endangered species, wetlands, etc.

All project activity must be accomplished in a manner that maintains compliance throughout the lifetime of the project.

Environmental clearances are based on the method, scope, and timing of the construction activity.

Changes to planned construction methods, phasing, and traffic detours may require additional public involvement or environmental surveys and should be addressed as early as possible.

Activities at Project Specific Locations (PSLs) must also comply with applicable federal, state, and local laws. Please refer to Item 7.6 of the TxDOT Standard Specifications for additional information.

Regulatory Commitments

If any wildlife is encountered, **work must cease in the immediate area**, and wildlife must be allowed to leave the vicinity. Follow these guidelines:

- **Do not kill or disturb (harass, touch, move, etc.)** snakes, birds, bats or other wildlife. These species are protected by state and/or federal laws. Forcing protected species to move out of a
project area or killing them could result in financial penalties and/or prosecution of individuals by state and federal agencies.

- If wildlife become entrapped or refuse to leave the project area, contact TxDOT District environmental specialists for assistance.

- The use of wildlife-friendly erosion control devices are strongly encouraged by TxDOT (applies to Item 169 “Soil Retention Blanket”). This would include the use of products that are made entirely of natural material (straw, coconut, wood, etc.) and not plastic or synthetic netting. Information on approved products and general product material descriptions can be found at www.txdot.gov by searching “erosion control.” If you have questions, please contact TxDOT Area Office staff.

**Trash**

- No trash or debris shall enter any water or channel.
- All debris within the project limits must be removed and disposed of by the contractor. This may include tires, home appliances, furniture, construction materials, etc.
- Collect litter daily, including water bottles, cigarette butts, food wrappers, etc.

**Bridge Demolition**

Requirements prior to demolition of bridges or bridge class culverts include:

- Put measures in place to ensure demolition debris does not enter any waterway.
- Prior to demolition, verify the structure has been tested for asbestos containing materials (ACM) and lead-containing paint (LCP). Complete abatement as necessary.
1. Maintain a clean work site. Dispose of trash properly.

2. Project specific environmental guidance can be found on the EPIC sheets, in the General Notes, and on the plan set.

3. Ensure ACM and LCP abatement are completed and that demolition debris and trash litter do not enter any waterway.

4. Phase project to occur outside bird nesting season.
- Verify the Texas Department of State Health Services (TDSHS) has been notified ten days before demolition. The notification must have an accurate start date. If demolition or abatement schedule changes, notify TDSHS as soon as possible.

- Demolition activities shall not harm or disturb bats or nesting birds. Phase projects to occur outside of migratory bird nesting season (typically March 1 to August 31) or use nesting exclusion devices.

- TxDOT environmental specialists are available to assist in bat and/or bird nesting surveys.

- Birds and/or bats cannot be relocated without permission from the appropriate regulatory agencies. Animals can only be handled by qualified/permitted individuals.

- Contact TxDOT district environmental specialists for assistance with wildlife relocations.

**Environmental Resources for Contractors**

- CICA – Construction Industry Compliance Assistance (NEPA plain language explanations)
- TCEQ – Texas Commission on Environmental Quality (Storm Water Pollution Prevention Plan {SW3P})
- TxDOT - Texas Department of Transportation (Erosion Control - Approved Products List & Product Descriptions)
Construction work in fresh water (e.g., wetlands, streams, lakes, etc.) or tidal water (e.g., tidal wetlands, estuaries, bays, open ocean, etc.) may require a permit from the U.S. Army Corps of Engineers (USACE) and coordination with other regulatory agencies.

**Requirements of all projects**
Maintain water quality best management practices (BMPs) throughout the duration of the project. Water quality BMPs must be removed and disposed of properly upon completion of work, unless otherwise specified in the plan set. Refer to EPIC and SW3P sheets for additional information.

- Maintain downstream flows. This means that water flow must not be restricted to the extent that downstream areas experience low water conditions.
- Remove and properly dispose of any debris (e.g., broken concrete, rebar, tires, household goods, etc.), found or resulting from the project.
- Prevent debris (e.g., construction material, trash, etc.) from falling into wetlands, waterbodies, or other protected water resources. Contact the TxDOT Area Office and district environmental specialists for assistance with prevention or removal methods.
- When removing silt fence, capture and remove all accumulated sediments. Dispose of sediment as construction debris according to TCEQ regulations.
- If a temporary stream crossing is needed for construction, please coordinate with the TxDOT Area Office to ensure that the crossing has been properly permitted prior to construction, and follow all required permit conditions and BMPs.
Temporary crossings may be in place for up to six months, unless otherwise approved by the TxDOT Area Office. If a temporary stream crossing is installed, appropriate water quality BMPs must be used to protect the waterway (including maintaining downstream flow) and must be entirely removed upon project completion.

- Any equipment that comes into contact with water is required to follow Texas Parks and Wildlife Department (TPWD) Clean, Drain and Dry procedures to protect against spreading of invasive aquatic species, such as zebra mussel and water hyacinth. See Clean-Drain-Dry Regulations, or contact the TxDOT district environmental specialists for guidance.

- Certain TxDOT projects may have additional environmental requirements. Follow all additional environmental requirements outlined in the General Notes, EPIC sheet, and/or other sections of the plan set.
All permits require bank stabilization. Do not allow sediment to enter the water. USACE permits may be revoked if erosion or sedimentation controls are not properly installed and maintained.

Keep waterways open and properly dispose of debris.

Clean, Drain, and Dry equipment protocols protect against the spread of invasive species.
The Migratory Bird Treaty Act (MBTA) prohibits the taking (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service (USFWS). Eggs, young, and adults are protected under MBTA.

Most bird species in Texas are migratory and protected under MBTA.

- Violation of this act may result in fines up to $2,000 and/or jail sentences up to two years for each offense.
- All activity must be conducted in a manner which does not prevent nesting birds from successfully hatching and fledging their young.
- Watch for ground nesting species in the right of way (ROW).
- If a nest becomes damaged or young are found outside of a nest, work must cease in the immediate area. Contact TxDOT environmental specialists.

Bird nesting season typically occurs between March 1 and August 31.
1. Permit(s) will be revoked if the MBTA is violated.

2. Perform work outside of nesting season and/or implement proper BMP for season.

3. Contact TxDOT environmental specialists to assist with nesting surveys prior to construction.
Project Planning Considerations

If tree trimming or brush clearing activities will take place during bird nesting season, please contact TxDOT Area Office and environmental specialists as soon as possible prior to planned activity. TxDOT environmental specialists are available to assist in nesting surveys. If active nests are identified, these cannot be disturbed until young birds (fledglings) have left the nest.

Birds are frequently found nesting in TxDOT bridges and culverts. Once birds have established nests, bridges/culverts cannot be demolished until all young birds (fledglings) have left the nests.

If possible, plan bridge/culvert work outside of nesting season. However, if bridge and/or culverts work is anticipated to begin during bird nesting season (March 1–August 31), contractors may use bird nesting exclusion devices to prevent project delays. Additional information, including TxDOT specifications, are available and can be requested from the TxDOT Area Office.
Protected Habitats

Protected/sensitive habitats will be identified on the EPIC and/or individual plan sheets. Impacts to these areas is prohibited. While some foot traffic or emergency use is permitted, no heavy equipment may enter these areas.

**Vegetation and Habitat BMPs**

Vegetation and Wildlife BMPs are practices implemented at any phase of the project that focuses on minimizing impacts of construction projects on wildlife and their habitats. Depending on the project, these may be required actions or just recommendations.

TxDOT uses Vegetation and Wildlife BMPs to:

- Stay in compliance with wildlife protection laws
- Avoid or minimize conflicts with wildlife (collisions, encounters, etc.)
- Avoid or minimize adverse impacts to wildlife and their habitat. BMPs can include:
  - Limiting the number of vehicles in the ROW
  - Avoiding driving beyond paved areas
  - Using established equipment and material staging/storage areas
  - Avoiding using undisturbed areas
- Help maintain water quality
- Prevent daily and migratory disruptions by installing wildlife crossings, fencing, etc. Animals move daily to find food and water and escape predation, as well as for mating and raising young.
1. BMPs keep you in compliance with wildlife protection laws and prevent adverse impacts on our local natural resources and wildlife.

2. Implement SW3P requirements and minimize impacts to vegetation.

3. Review EPICs and plan sheets for prohibited or sensitive areas prior to construction.
• Minimize vegetation disturbance and/or removal. This will improve erosion control and storm water pollution prevention plan (SW3P) requirements. Minimization is defined as only clearing the minimum area necessary to accomplish the work. Minimizing vegetation clearing reduces costs for seeding and/or replanting.

Use of BMPs should be evaluated on a project by project basis. Project specific BMPs are included in the General Notes, EPIC sheet, and/or other sections of the plan set. Please direct any questions to the TxDOT Area Office and environmental specialists.
Protected Wildlife

TxDOT has existing agreements with Texas Parks and Wildlife Department (TPWD) and U.S. Fish and Wildlife Service (USFWS) that commit to protecting wildlife on TxDOT projects.

Protected wildlife that may be present at your project site will be identified on the EPIC and/or individual plan sheets. **DO NOT KILL** wildlife. If any wildlife is encountered on your project site, work must cease in the area and wildlife must be allowed to leave the vicinity. If wildlife is trapped or refuses to leave the area, contact TxDOT environmental specialists for assistance.

Vegetation and Wildlife BMPs are practices implemented at any phase of the project that focuses on minimizing impacts of construction projects on wildlife and their habitats. For additional information please refer to Protected Habitat Section, page 13.

Use of BMPs should be evaluated on a project by project basis. Project specific BMPs are typically included on the EPIC sheet. Please direct questions to the TxDOT Area Office and environmental specialists.

**General Wildlife BMPs**

- If equipment is staged on site, check for the presence of wildlife each morning prior to using the equipment.
- Cover open trenches overnight. Check all trenches each day, prior to the start of work, and prior to filling trenches, to ensure no wildlife has become trapped.
The wildlife protection agreements between TxDOT and other regulatory agencies allow for a more efficient and effective project execution.

Wildlife utilizing a multi-use culvert.

Wildlife-friendly erosion control measures are included in TxDOT’s approved products list (Item 169).
The use of wildlife-friendly erosion control devices is strongly encouraged by TxDOT (applies to Item 169 “Soil Retention Blanket”). This would include the use of products that are made entirely of natural material (straw, coconut, wood, etc.) and not plastic or synthetic netting. Information on approved products and general product material descriptions can be found at www.txdot.gov by searching “erosion control.” If you have questions, please reach out to TxDOT Area Office staff.

**Coastal Projects – Federally Protected Wildlife and Habitats**

**Sea Turtles**

There are five species of sea turtles that may be found in coastal Texas waters. They are protected under the Federal Endangered Species Act (ESA), and there are civil and criminal penalties for harming, harassing, or killing them.

If a sea turtle is seen within 100 yards of active construction activities or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions include:

- Halt all movement of vessels and operation of construction equipment immediately if a sea turtle is seen within a 50-foot radius of the equipment. Do not resume any activities until the sea turtle has left the area of its own volition.

**Bat BMPs**

- Bats may not be relocated without permission from regulatory agencies.

*Note that bats are easily relocated with minor expense.*

*For bird BMPs, please refer to page 10.*
Check for wildlife prior to morning start.

Five species of sea turtles are protected by state and federal laws, including the endangered Kemps Ridley.

Habitat vital to our fishing and recreational industries are found along our coast. When EPICs are not implemented, both federal and state permits can be revoked.
• Call a local wildlife rescue organization authorized to rescue and rehabilitate sea turtles. To report an injured sea turtle, please call (361) 949-8173 or (866) 887-8535.

• Any collision with or injury to a sea turtle must be reported to the National Marine Fisheries Service’s Protected Resources Division (727)-824-5312.

Marine Mammals
West Indian manatees and bottlenose dolphins are present in coastal Texas waters and are protected under the Marine Mammal Protection Act (MMPA). Harming, harassing, or killing manatees or dolphins could result in financial penalties and/or prosecution of individuals by state and federal agencies.

Oyster Reef, Seagrasses, & Tidal Marsh
Oyster reef, seagrasses, and tidal marsh are important habitats for fish, shrimp, and crabs and can be found throughout coastal waters in Texas. These areas are Special Aquatic Sites and are protected by state and federal agencies, including the USACE.

These are environmentally sensitive areas and work within them is prohibited or strictly limited. If any of these areas are present within your project site, information on the location(s) and any restrictions will be included in the General Notes, EPIC sheet, and/or other sections of the plan set.
If there are known historic resources within your project area, these will be identified on the EPIC and/or plan sheets. If previously unknown historic resources are identified during construction, all work must cease in the area until TxDOT can properly evaluate the resource and coordinate with the appropriate agencies. Please refer to Item 7.7 of the TxDOT Standard Specifications for additional information.

- Historic age resources are items that are 45 years old or older. These items may be found during construction activities. Examples include farming equipment, religious items, or historic paving materials such as brick, stone (limestone, cobble), or stamped concrete. If items are found that may be historic resources, please stop work in the vicinity and contact the TxDOT Area Office.

- Historical markers come in a wide variety of forms. Take care not to damage or destroy them. Do not move historic markers prior to coordinating with the TxDOT Area Office.

- Historic bridges, buildings, streets, and neighborhoods (i.e. historic districts) are found in communities throughout Texas. These are protected under federal and state law and regulated by the Texas Historical Commission.

- Courthouses are historically significant places in Texas. Work on courthouse squares, including sidewalks, parking, lighting or other enhancements, must be coordinated with the Texas Historical Commission and is typically completed prior to construction.
Sidewalk Construction

- Historic buildings may be located near or adjacent to your project. Care must be taken to prevent negatively impacting these historic resources. The proper precautions will be identified on the EPIC/plan sheets and/or within the General Notes. These precautions typically include:
  - Saw cut existing sidewalk 8 to 12 inches away from the historic structures (buildings, etc.). Expansion joint must be placed between historic structure and new sidewalk. If existing sidewalk is removed entirely, the remaining 8 to 12 inches next to the historic structure must be removed by hand.
  - Prior to the start of work, coordinate with local historic organizations as necessary. This coordination may be completed by TxDOT environmental specialists.

- If any historic resources are damaged during construction, TxDOT must notify the Texas Historical Commission. If damages are the fault of the contractor, the contractor would be responsible for finding replacement historical materials and completing repairs at his own expense.

Archeological Sites

- If there are known archeological resources within your project area, these will be identified on the EPIC and/or plan sheets. If previously unknown archeological resources are identified during construction, all work must cease in the area until the resource can be properly evaluated and coordination is completed with the appropriate agencies. Please refer to Item 7.7 of the TxDOT Standard Specifications for additional information.
1. Install expansion joints between new sidewalks and historic buildings. This protects the historic building from damage caused by the expansion and contraction of the concrete.

2. While most historical markers should be offset from project areas, keep an eye out to ensure that they will not be damaged by any construction work.

3. Courthouse squares have special protection in the state of Texas. All work on a courthouse square must be approved and must be conducted carefully to protect its history.

4. Historic rest areas materials may include stone masonry, brick and concrete, corrugated asbestos, or tubular steel, such as this mid-century picnic table with arbor.
- Archeological resources include prehistoric sites of indigenous peoples and colonial settlements. These sites may include stone tools, pottery shards, ground stone, bone fragments, shell or charcoal. These sites and resources are protected under tribal, federal, and state regulations.

- Historic archeological sites can include wells, cisterns, or building foundations. Indicators of historic archeological sites include glass shards of varying colors (black, light green or blue with air bubbles, purple/amethyst, white), ceramics, brick fragments (solid, smaller than present day bricks) and metal fragments (cast iron).

**Discovery Procedures**

When construction activities turn up archeological evidence, such as arrowheads or pottery sherds, take the following actions:

1. Stop work in the area where the artifacts were discovered.
2. Immediately notify TxDOT Area Office staff.
3. TxDOT environmental specialists will work with qualified TxDOT archeologists to notify the appropriate state agency of the discovery.
Various prehistoric artifacts, including (roughly clockwise from top left) stone dart points, other stone tools, debris from stone tool manufacture (flakes), bone, shell, ceramic shards and burnt rock (from hearths, fire pits).

Various historic artifacts (clockwise from top left), include window glass, bottle glass, ceramic shards, buttons, bullet casings, coins, barbed wire, nails and children’s toys.
**Cemeteries**

If there are known cemeteries within your project area, these will be identified on the EPIC and/or plan sheets. Both marked and unmarked cemeteries are present in TxDOT’s right of way. All cemeteries are afforded legal protection. Care should be taken to protect all cemetery features including monuments and fences.

**Discovery Procedures**

If construction activities uncover human remains, graves, or cemeteries, the following steps must be taken:

1. Stop all work in the area where the remains were found. Do not touch or remove any of the remains. Reasonable protections should be put in place to prevent further impacts to the remains (this may include construction fencing, barriers, staged equipment, etc.).

2. Immediately notify the TxDOT Area Office. Do not notify local law enforcement. TxDOT shall notify law enforcement.

3. TxDOT will also notify the appropriate state agency. Unmarked burials are regarded as a potential crime scene until law enforcement has determined that the remains are not a crime scene under their jurisdiction.
Grave shafts can appear as darker or lighter stains in the soil.
CONTACT INFORMATION

District Environmental Office (361) 808-2509
Alice Area Office (361) 661-7050
Karnes Area Office (830) 780-3132
Sinton Area Office (361) 364-6400
Corpus Christi District Office (361) 808-2500

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