

EMERGENCY PERMITTING FOR ENERGY PROJECTS

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Emergency Permitting

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AGENDA

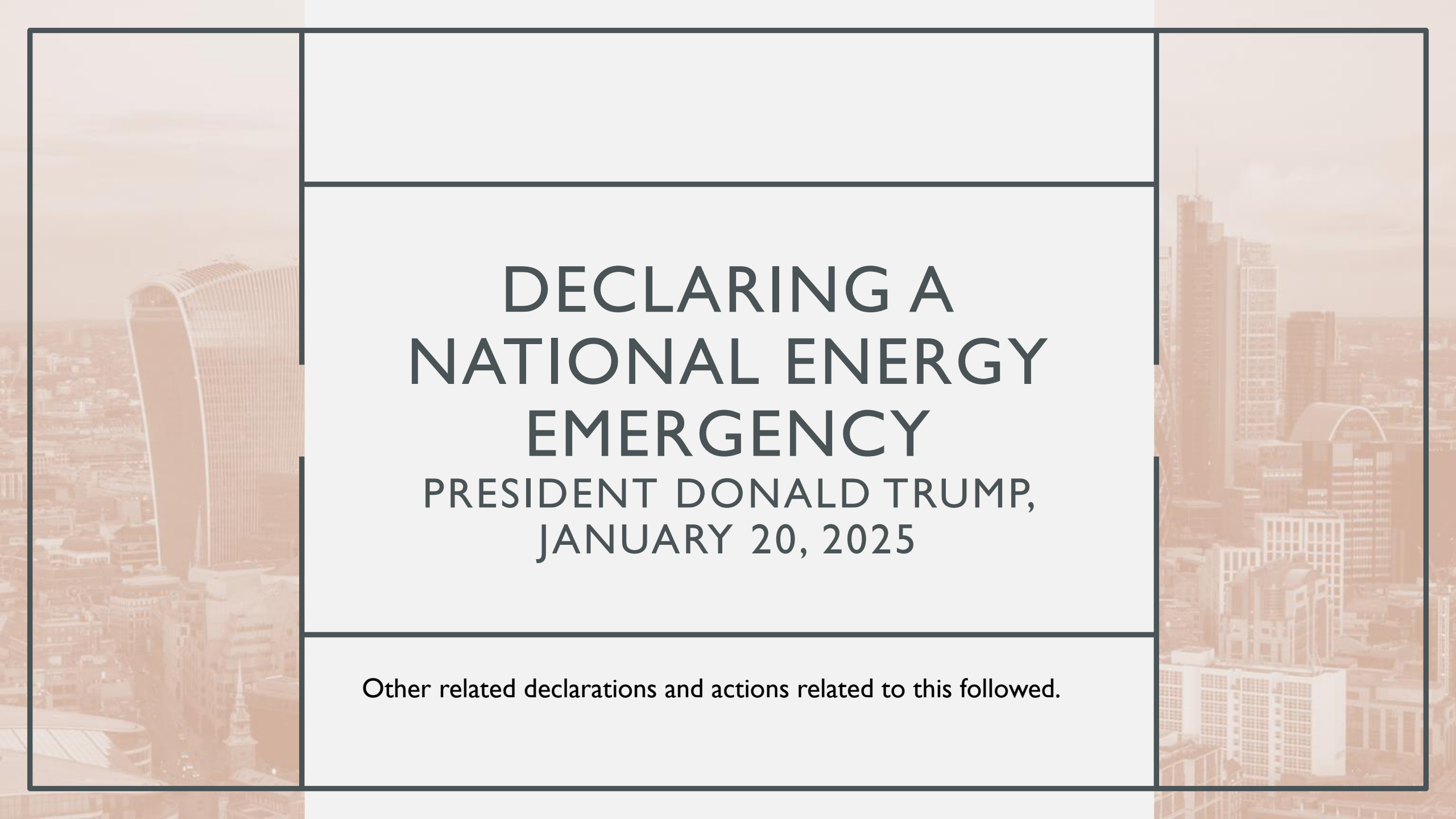
This presentation will go over quite a bit, and we are limited on time. I ask that no questions be asked during the presentation. If we have time, I will do my best to answer your questions.

- 3 I fully understand that the items I will discuss will evoke emotions but due to time constraints and not having DOI or Executive department employees present, this isn't the place or time to direct possible feelings you may have about this subject.

RELEVANCE

Many EPA funded tribal natural resources, and environmental programs are the primary tribal point-of-contact for federal land agencies.

There is a misperception by agencies, both state and federal, that the tribal leadership is the primary point-of-contact and sometimes that is the case, but usually it is the tribal program, that in turn communicates to their administration and leadership. This may also be the THPO office.



DECLARING A NATIONAL ENERGY EMERGENCY

PRESIDENT DONALD TRUMP,
JANUARY 20, 2025

Other related declarations and actions related to this followed.

Sec. 2. Emergency Approvals. (a) The heads of executive departments and agencies (“agencies”) shall identify and exercise any lawful emergency authorities available to them, as well as all other lawful authorities they may possess, to facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources, including, but not limited to, on Federal lands. **If an agency assesses that use of either Federal eminent domain authorities or authorities afforded under the Defense Production Act (Public Law 81-774, 50 U.S.C. 4501 et seq.) are necessary to achieve this objective, the agency shall submit recommendations for a course of action to the President, through the Assistant to the President for National Security Affairs.**

Sec. 3. Expediting the Delivery of Energy Infrastructure. (a) To facilitate the Nation’s energy supply, agencies shall identify and use all relevant lawful emergency and other authorities available to them to expedite the completion of all authorized and appropriated infrastructure, energy, environmental, and natural resources projects that are within the identified authority of each of the Secretaries to perform or to advance.

Sec. 4. Emergency Regulations and Nationwide Permits Under the Clean Water Act (CWA) and Other Statutes Administered by the Army Corps of Engineers. (a) Within 30 days from the date of this order, **the heads of all agencies**, as well as the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works shall:

(i) identify planned or potential actions to facilitate the Nation's energy supply that may be subject to emergency treatment pursuant to the regulations and nationwide permits promulgated by the Corps, or jointly by the Corps and EPA, pursuant to section 404 of the Clean Water Act, 33 U.S.C. 1344, section 10 of the Rivers and Harbors Act of March 3, 1899, 33 U.S.C. 403, and section 103 of the Marine Protection Research and Sanctuaries Act of 1972, 33 U.S.C. 1413 (collectively, the "emergency Army Corps permitting provisions"); and

(ii) shall provide a summary report, listing such actions, to the Director of the Office of Management and Budget ("OMB"); the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works; the Assistant to the President for Economic Policy; and the Chairman of the Council on Environmental Quality (CEQ). Such report may be combined, as appropriate, with any other reports required by this order.

(b) Agencies are directed to use, to the fullest extent possible and consistent with applicable law, the emergency Army Corps permitting provisions to facilitate the Nation's energy supply.

More...



DOI EMERGENCY PERMITTING FOR ENERGY PROJECTS

Implementation

HIGHLIGHTS

In response to President Donald J.Trump’s declaration of a National Energy Emergency, the U.S. Department of the Interior will implement emergency permitting procedures to accelerate the development of domestic energy resources and critical minerals. These measures are designed to expedite the review and approval, if appropriate, of projects related to the **identification, leasing, siting, production, transportation, refining, or generation of energy within the United States**. The new permitting procedures will take a multi-year process down to just 28 days at most.

The procedures apply to actions relating to a wide range of energy sources, including:

Crude oil
Natural gas
Lease condensates
Natural gas liquids
Refined petroleum products
Uranium
Coal
Biofuels
Geothermal energy
Kinetic hydropower
Critical minerals

It is possible that other energy sources may be added such as AI tech centers.

HIGHLIGHTS

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“The United States cannot afford to wait,” said Secretary of the Interior Doug Burgum. “President Trump has made it clear that our energy security is national security, and these emergency procedures reflect our unwavering commitment to protecting both. We are cutting through unnecessary delays to fast-track the development of American energy and critical minerals—resources that are essential to our economy, our military readiness, and our global competitiveness. By reducing a multi-year permitting process down to just 28 days, the Department will lead with urgency, resolve, and a clear focus on strengthening the nation’s energy independence.”

The declaration of a National Energy Emergency recognizes that current delays in energy project approvals pose significant risks to the nation’s economic stability, national security, and foreign policy interests. **In response, the Department will utilize emergency authorities under existing regulations for the National Environmental Policy Act, Endangered Species Act, and the National Historic Preservation Act. The procedures, outlined below, will significantly enable faster permitting timelines—reducing processes that typically take several months or years to just weeks.**

HIGHLIGHTS

According to the Department of Interior, energy projects that identify, lease, produce, refine, or general crude oil, natural gas, coal, uranium, and critical minerals can apply for “**alternative arrangements**” for NEPA compliance.

The process involves the project company applying for the emergency permit from the land agency area office, normally the Bureau of Land Management or US Forest Service (USDA).

The application is then reviewed and approved or disapproved. There are permit requirements. In my meetings with BLM and US Forest Service, the application is applied for at the area office level, and I will get to the approval authority level.

HIGHLIGHTS

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Triggering the Emergency Procedures:

- The DOI is utilizing emergency authorities under existing regulations for NEPA, ESA, and NHPA. (Previously done for bridges and culverts)
- A national energy emergency has been declared, allowing the use of these procedures.
- Project proponents must agree in writing to use the alternative procedures and have submitted relevant applications (Permit requirements - **plans of operation**, drilling permits, other).
- The Department will determine if emergency coverage is appropriate for the specific project.

The background of the slide features a grayscale photograph of a city skyline, specifically showing several tall apartment buildings with many windows. Overlaid on this image is a white grid consisting of several rectangular frames. The text is centered within one of these frames.

NATIONAL ENVIRONMENTAL PROTECTION ACT (NEPA)

Alternative Arrangements

HIGHLIGHTS OF NEPA CHANGES

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National Environmental Policy Act (NEPA): The Department will be adopting an alternative National Environmental Policy Act compliance process to allow for more concise documents and a compressed timeline.

Projects analyzed in an **environmental assessment**, normally taking up to one year, will now be reviewed within approximately **14 days**.

Projects requiring a **full environmental impact statement**, typically a two-year process, will be reviewed in roughly **28 days**.

Under these new procedures, the agency will publish environmental reviews of proposed projects under an extremely accelerated timeline with limited public comment. A final environmental assessment (EA) or finding of no significant impact (FONSI) will be published within 14 days without seeking public comment, and an environmental impact statement (EIS) will be published within 28 days after a discretionary comment period.

Under normal operating procedures, EAs must be published within one year, and EISs within two years. Previous NEPA rules also provided for extensive public engagement, including public comment opportunities on proposed EAs and EISs.

HIGHLIGHTS OF NEPA CHANGES

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Alternative Arrangements for NEPA Compliance

Authority

During an emergency, a Department of the Interior (Department) Responsible Official—which includes the Acting Assistant Secretary – Land and Minerals Management—can adopt alternative arrangements to comply with the National Environmental Policy Act (NEPA) before taking urgently needed actions (43 CFR 46.150). These alternative arrangements apply both to actions not likely to have significant environmental impacts (43 CFR 46.150(c)) and to actions likely to have significant environmental impacts (43 CFR 46.150(d)). The Acting Assistant Secretary – Land and Minerals Management has coordinated with the Office of Environmental Policy and Compliance and appropriate Bureau headquarters, and consulted with the Council on Environmental Quality (CEQ) about alternative arrangements for NEPA compliance concerning energy projects that respond to the energy emergency (43 CFR 46.150(c)-(d)). CEQ authorized the use of these alternative arrangements for projects that respond to the national energy emergency on April 23, 2025. The designee of the Acting Assistant Secretary – Policy, Management and Budget has approved the following alternative arrangements (43 CFR 46.150(c)-(d)), which have been adopted by the Acting Assistant Secretary – Land and Minerals Management:

Alternative Arrangements for NEPA Compliance

1. The only energy-related projects **eligible** for alternative arrangements for NEPA compliance are those projects: a. that **seek to identify, lease, site, produce, transport, refine, or generate energy resources** as defined in section 8(a) of EO 14156; and b. for which the project applicant(s) **have submitted plans of operations, applications for permits to drill, or other applications.**
2. The project applicant must affirm in writing that they want the **review of their project** to be covered by the alternative arrangements for NEPA compliance. (See Attachment 1) 3. **The Responsible Official** evaluating the application will prepare a focused, concise, and **timely** NEPA document in accordance with the following process: a. **For projects not likely to have significant environmental impacts**, the Responsible Official will prepare a focused, concise, and timely environmental assessment addressing the purpose and need for the proposed action, alternatives, mitigation measures, and a brief description of environmental effects. The environmental assessment should be **prepared within approximately 14 days** of receiving a complete application. If the environmental assessment supports a finding of no significant impact, documentation of such finding should be prepared concurrently within the same period of approximately 14 days. The Responsible Official will publish the environmental assessment and finding of no significant impact on a public website. **The Responsible Official is not required to seek public comment prior to finalizing the environmental assessment, finding of no significant impact, and any decision.**

HIGHLIGHTS OF NEPA CHANGES

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Alternative Arrangements for NEPA Compliance

b. For projects likely to have **significant environmental impacts**, the Responsible Official will follow the alternative arrangements outlined in CEQ's letter dated April 23, 2025, also described here. The Responsible Official will publish a notice of intent to prepare an environmental impact statement on a public website soliciting written comments and announcing a public meeting to be held during preparation of the environmental impact statement. **The Responsible Official will, in his discretion, determine the duration of the written comment period based on the nature of the action and the urgency of the emergency response**, and the Department anticipates that most comment periods will be approximately 10 days. **The public meeting may be virtual or in person, at the discretion of the Responsible Official**, considering the nature of the action and the likely effects. The Responsible Official will prepare a focused, concise, and timely environmental impact statement addressing the purpose and need for the proposed action, alternatives, and a brief description of environmental effects in accordance with 43 CFR 46.415(a)-(b). The environmental impact statement should be prepared within approximately 28 days of publishing the notice of intent to prepare an environmental impact statement. The Responsible Official will publish the environmental impact statement on a public website and file it with the Environmental Protection Agency. **The Responsible Official is not required to publish a draft environmental impact statement prior to finalizing the environmental impact statement and any record of decision.**

HIGHLIGHTS OF NEPA CHANGES

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Alternative Arrangements for NEPA Compliance

Only the Assistant Secretary – Land and Minerals Management, Deputy Secretary of the Interior, Secretary of the Interior, their acting equivalents, or those officials exercising the delegated authority of these positions may approve coverage of an application by alternative arrangements for NEPA compliance, and only those officials may issue a decision to approve an application or otherwise take action covered by such alternative arrangements. Any approval must be made in compliance with other applicable statutes, such as the Endangered Species Act and National Historic Preservation Act. Any approval must also document how the action addresses the national energy emergency.

HIGHLIGHTS OF NEPA CHANGES

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Alternative Arrangements for NEPA Compliance

The project applicant must agree to:

- a. operate in accordance with the application approved by the Assistant Secretary
- b. take measures to mitigate reasonably foreseeable significant adverse effects on the quality of the human environment;
- c. abide by applicable Federal (e.g., Clean Water Act, Clean Air Act), State, and local environmental laws.



SECTION 106 NATIONAL HISTORIC PRESERVATION ACT

Alternative Arrangements

HIGHLIGHTS OF SECTION 106 CHANGES

Alternative Arrangements for Section 106 NHPA Compliance **Authority**

The Advisory Council on Historic Preservation's (ACHP) regulations that implement section 106 of the National Historic Preservation Act (NHPA) expressly recognize the need for alternative procedures for compliance concerning proposed undertakings that address emergency situations, including when the President declares an emergency (36 C.F.R. § 800.12(a)). In the case of an emergency, the regulations offer several ways to comply with the requirements of section 106 of the NHPA: (1) development of formal emergency procedures, 36 C.F.R. § 800.12(a); (2) use of an existing Programmatic Agreement (PA) that includes specific provisions covering emergency procedures, 36 C.F.R. § 800.12(b)(1); or (3) an ad hoc process for undertakings responding to an emergency declaration when there is no formal emergency procedure or an applicable PA, 36 C.F.R. § 800.12(b)(2). Using these provisions, as appropriate, involves complying with certain minimal requirements, but each provision allows for expedited approval of undertakings that respond to the emergency.

HIGHLIGHTS OF SECTION 106 CHANGES

Alternative Arrangements for Section 106 NHPA Compliance

Given the national energy emergency declaration in EO 14156, the Department of the Interior (Department) intends to use the emergency provisions in 36 C.F.R. § 800.12 to satisfy compliance with section 106 for those undertakings that respond to the National Energy Emergency. As described below, the Department has identified an initial criteria of projects that would facilitate an essential and immediate response to the declared national energy emergency. The Department further sets forth below steps that the appropriate Interior Bureaus will undertake to meet the emergency provisions covered under 36 C.F.R. § 800.12(b)(1) or (2). Currently, the Department does not have formal emergency procedures approved by the ACHP that are applicable to the National Energy Emergency consistent with 36 C.F.R. § 800.12(a).

However, the Department, or Interior Bureaus, will consider the utility of developing such procedures.

HIGHLIGHTS OF SECTION 106 CHANGES

Alternative Arrangements for Section 106 NHPA Compliance

This document serves as notice to applicants for projects related to “energy resources” as defined by EO 14156, as well as to the ACHP, all State Historic Preservation Offices (SHPOs), Tribal Historic Preservation Offices (THPOs), and Indian tribes, that the Department will rely on the emergency provisions set forth at 36 C.F.R. § 800.12(b)(2) to satisfy its obligations under section 106 of the NHPA as follows:

1. The only projects eligible for alternate procedures for compliance with section 106 of the NHPA will be those projects:
 - a. that seek to identify, lease, develop, produce, transport, refine, or generate energy resources, as defined in section 8(a) of EO 14156; and
 - b. b. for which the project applicant(s) have submitted plans of operations, applications for permits to drill, or other applications.
2. The energy project applicants must affirm in writing to the Responsible Official(s) that they
 - a. want to proceed under the alternative procedures; and
 - b. will implement, to the extent prudent and feasible, measures that avoid or minimize harm to historic properties.

Alternative Arrangements for Section 106 NHPA Compliance

3. The relevant Responsible Official(s) are responsible for notifying the ACHP, relevant SHPOs, THPOs, and Indian tribes of the specific energy project(s) for which they intend to use the emergency section 106 alternative procedures as provided in 36 C.F.R. § 800.12(b)(2) and will invite comments within seven days of the notice.

For those eligible projects under the Bureau of Land Management's (BLM) jurisdiction that qualify to use the specific emergency procedures included in an existing Programmatic Agreement (or State Protocol Agreement), BLM will follow those existing emergency procedures as authorized under 36 C.F.R. § 800.12(b)(1).

ALTERNATIVE PROCEDURES FOR INFORMAL SECTION 7 CONSULTATION

Alternative Arrangements

HIGHLIGHTS OF ESA

ALTERNATIVE PROCEDURES FOR INFORMAL SECTION 7 CONSULTATION AUTHORITY

During a national emergency, the Department of the Interior can adopt alternative procedures for informal, expedited consultation to comply with section 7(a)-(d) of the Endangered Species Act (ESA) (50 CFR 402.05).

ALTERNATIVE PROCEDURES FOR INFORMAL SECTION 7 CONSULTATION

U.S. Fish and Wildlife Service (FWS) has determined that the following alternative procedures are consistent with the requirements of section 7(a)-(d) of the ESA (50 CFR 402.05(a)):

1. The only projects eligible for these particular alternative procedures for the informal, expedited section 7 consultation are those projects:
 1. that seek to **identify, lease, develop, produce, transport, refine, or generate energy resources** as defined in section 8(a) of EO 14156; and
 2. for which the project applicant(s) have submitted plans of operations, applications for permits to drill, and other applications.
2. The project applicants must affirm in writing that they want their project covered by the alternative procedures for informal, expedited section 7 consultation.
3. The Secretary of the Interior, the Deputy Secretary of the Interior, the appropriate Assistant Secretary, their acting equivalents, or those officials exercising the delegated authority of these positions must approve coverage of the project under the alternative procedures for informal, expedited section 7 consultation.

ALTERNATIVE PROCEDURES FOR INFORMAL SECTION 7 CONSULTATION

4. The alternative procedures are the following: a. The Federal action agency shall inform FWS about the proposed action and decision to use the alternative consultation procedures due to the national energy emergency. b. The Federal action agency coordinates with FWS in accordance with 50 CFR 402.05(a) and proceeds with the proposed action if the necessary requirements of other departments and agencies are met.
5. As soon as practicable under the circumstances, following termination or expiration of the national energy emergency, the Federal action agency shall follow 50 CFR 402.05(b) and provide the information necessary to initiate consultation. FWS shall evaluate the information and deliver either a biological opinion or letter of concurrence to the Federal action agency, as appropriate, and in accordance with the timeframes set forth in the ESA section 7 implementing regulations at 50 CFR part 402.

EXAMPLES

Several proposed geothermal projects led by Ormat Nevada, Inc. will be among the first geothermal projects covered by the Department's new emergency permitting procedures:

Diamond Flat Geothermal Project (near Fallon, Nevada) – Ormat plans to drill test wells and conduct geothermal resource confirmation activities on federally leased land to determine whether the geothermal reservoir is commercially viable.

- 29 McGinness Hills Geothermal Optimization Project (Lander County, Nevada) – This effort involves upgrading and expanding three existing geothermal power plants by adding new wells, advanced heat exchangers, cooling fans, and a 15 MW solar photovoltaic field. These improvements aim to increase efficiency and boost output beyond the current 193 megawatts.

Pinto Geothermal Project (near Denio, Nevada) – Ormat is evaluating geothermal potential on leased public lands through test drilling and exploration activities.

FINAL TIPS & TAKEAWAYS

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AGENCY CHALLENGES

- New policy currently implemented
- Agencies still figuring out how this will work
- New expectations
- Land agencies expect Tribes to contact them
- Current agencies organizational structures may change
- Staffing concerns

TRIBAL CHALLENGES

- New tribal expectations
 - Extreme lowering of comment period timelines
- Tribal personnel or contractors needed to quickly review documents - funding
 - Expression of tribal sovereignty and how to best do it
- Cultural monitoring training to avoid out of state companies doing that work
 - Figuring out how to best quickly coordinate and communicate with agencies
- Right to Know Act and similar concerns

THANK YOU

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