



SPECIAL PUBLIC NOTICE

U.S. Army Corps
of Engineers
Vicksburg District

Issued: April 7, 2025

INFORMATIONAL PUBLIC NOTICE

**PUBLIC NOTICE FOR FEDERAL REGISTER NOTICE
ANNOUNCING THE ISSUANCE OF SPECIAL EMERGENCY PROCEDURES FOR
THE STATE OF MISSISSIPPI IN ACCORDANCE WITH 33 CFR § 325.2(E)(4) FOR
THE NATIONAL ENERGY EMERGENCY ESTABLISHED BY EXECUTIVE ORDER
(E.O.) 14156**

The purpose of this notice is to advise the public that the United States (U.S.) Army Corps of Engineers, Vicksburg District, has established special emergency processing procedures within the State of Mississippi in accordance with 33 CFR § 325.2(e)(4) for the National Energy Emergency established by Executive Order (E.O.) 14156 (enclosure 1), which was issued on January 20, 2025, under the President's legal authorities, including the National Emergencies Act (50 U.S.C. 1601 et seq) and section 301 of title 3, United States code. These special emergency processing procedures have been established pursuant to Sec. 4 of 14156 for activities associated with the identification, siting, production, transportation, refining, and generation of domestic energy sources, including energy infrastructure, that require Department of the Army authorization under Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and/or Section 103 of the Marine Research, Protection, and Sanctuaries Act of 1972, as amended. For the reasons stated in Sec. 1 of E.O. 14156, emergency procedures will be enacted to ensure corrective action requiring a permit is undertaken within a time period less than the normal time needed to process the application under standard permitting procedures. **These alternate procedures will be utilized until E.O. 14156 is rescinded.**

1. In accordance with 33 CFR 325.2(e)(4), an "emergency" is a situation which would result in an unacceptable hazard to life, a significant loss of property, or 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 permit application under standard procedures.

2. These special emergency procedures (enclosure 2) may only address activities directly related to this executive order, specifically items referenced in Section 8 of the executive order meeting the terms and definitions of "energy" or "energy resources".

3. All pre-construction notifications or applications for emergency activities that meet the terms of general permits may be authorized under existing permits. For general permit activities that would have more than minimal adverse environmental effects, without compensatory mitigation, the requirement for compensatory mitigation may be delayed by special condition for up to one (1) year after completion of the authorized activity. Activities may be authorized that do not meet general permit conditions at the time of construction (except Nationwide Permit general conditions 17, 18, 20, and 21). However, these non-compliant authorized activities will include a special condition to require compliance with all general and regional conditions within one (1) year after construction.

4. If an application for an emergency activity does not meet the terms of a general permit or would be highly unlikely to meet the conditions of a general permit within one (1) year of construction, standard processing procedures will be required. However, these reviews will be abbreviated with expedited external conditions.

5. For emergency authorizations, reasonable efforts will be made to receive comments from interested federal, state, and local agencies and the affected public when normally required by the general permit or standard permit procedure reviews. Comment periods required for resource agency consultations and coordination, including 401 water quality certifications, may be abbreviated. Resource agency comments may be received in any manner, and verbal comments will be documented by the receiving Corps staff. Emergency consultation requirements for Section 7 of the Endangered Species Act (50 CFR 402.05) will be followed for all emergency situations. Emergency procedures (33 CFR 325 Appendix C paragraph 14) for protection of historic properties will be followed for all emergency situations.

6. Emergency procedures are alternative procedures and are not a procedural waiver or the lack of any procedures. They will not be utilized to avoid providing prior public notice of a proposed project where practicable or to bypass procedural requirements of other laws. The District will make a permit decision after satisfying all necessary permitting procedures and considering/addressing any comments submitted by other agencies and the public. It is anticipated that this process can be finalized within 30 business days for most actions.

7. The purpose of this public notice is to announce the establishment of the special emergency processing procedures for the purposes of E.O. 14156 and provide information to the public about those special emergency processing procedures. These procedures were developed by the Vicksburg District as lead USACE District for the State of Mississippi, and the Vicksburg District coordinated the establishment of these final procedures with Memphis, Mobile, and Nashville Districts.

If you have any questions concerning these special emergency processing procedures, please contact Spencer Dixon or Anthony Lobred, Regulatory Division Senior Project Managers, at John.S.Dixon@usace.army.mil or Anthony.R.Lobred@usace.army.mil. If additional information is needed, please contact the appropriate Regulatory District within the State of Mississippi (enclosure 3).

Bryan Williamson
Chief (Acting), Regulatory Division
Vicksburg District

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Presidential Documents

Title 3—

Executive Order 14156 of January 20, 2025

The President

Declaring a National Energy Emergency

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (“NEA”), and section 301 of title 3, United States Code, it is hereby ordered:

Section 1. Purpose. The energy and critical minerals (“energy”) identification, leasing, development, production, transportation, refining, and generation capacity of the United States are all far too inadequate to meet our Nation’s needs. We need a reliable, diversified, and affordable supply of energy to drive our Nation’s manufacturing, transportation, agriculture, and defense industries, and to sustain the basics of modern life and military preparedness. Caused by the harmful and shortsighted policies of the previous administration, our Nation’s inadequate energy supply and infrastructure causes and makes worse the high energy prices that devastate Americans, particularly those living on low- and fixed-incomes.

This active threat to the American people from high energy prices is exacerbated by our Nation’s diminished capacity to insulate itself from hostile foreign actors. Energy security is an increasingly crucial theater of global competition. In an effort to harm the American people, hostile state and non-state foreign actors have targeted our domestic energy infrastructure, weaponized our reliance on foreign energy, and abused their ability to cause dramatic swings within international commodity markets. An affordable and reliable domestic supply of energy is a fundamental requirement for the national and economic security of any nation.

The integrity and expansion of our Nation’s energy infrastructure—from coast to coast—is an immediate and pressing priority for the protection of the United States’ national and economic security. It is imperative that the Federal government puts the physical and economic wellbeing of the American people first.

Moreover, the United States has the potential to use its unrealized energy resources domestically, and to sell to international allies and partners a reliable, diversified, and affordable supply of energy. This would create jobs and economic prosperity for Americans forgotten in the present economy, improve the United States’ trade balance, help our country compete with hostile foreign powers, strengthen relations with allies and partners, and support international peace and security. Accordingly, our Nation’s dangerous energy situation inflicts unnecessary and perilous constraints on our foreign policy.

The policies of the previous administration have driven our Nation into a national emergency, where a precariously inadequate and intermittent energy supply, and an increasingly unreliable grid, require swift and decisive action. Without immediate remedy, this situation will dramatically deteriorate in the near future due to a high demand for energy and natural resources to power the next generation of technology. The United States’ ability to remain at the forefront of technological innovation depends on a reliable supply of energy and the integrity of our Nation’s electrical grid. Our Nation’s current inadequate development of domestic energy resources leaves us vulnerable to hostile foreign actors and poses an imminent and growing threat to the United States’ prosperity and national security.

These numerous problems are most pronounced in our Nation's Northeast and West Coast, where dangerous State and local policies jeopardize our Nation's core national defense and security needs, and devastate the prosperity of not only local residents but the entire United States population. The United States' insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation's economy, national security, and foreign policy. In light of these findings, I hereby declare a national emergency.

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.

(b) Consistent with 42 U.S.C. 7545(c)(4)(C)(ii)(III), the Administrator of the Environmental Protection Agency, after consultation with, and concurrence by, the Secretary of Energy, shall consider issuing emergency fuel waivers to allow the year-round sale of E15 gasoline to meet any projected temporary shortfalls in the supply of gasoline across the Nation.

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.

(b) To protect the collective national and economic security of the United States, agencies shall identify and use all lawful emergency or other authorities available to them to facilitate the supply, refining, and transportation of energy in and through the West Coast of the United States, Northeast of the United States, and Alaska.

(c) The Secretaries shall provide such reports regarding activities under this section as may be requested by the Assistant to the President for Economic Policy.

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.

(c) Within 30 days following the submission of the initial summary report described in subsection (a)(ii) of this section, each department and agency shall provide a status report to the OMB Director; the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works; the Director of the National Economic Council; and the Chairman of the CEQ. Each such report shall list actions taken within subsection (a)(i) of this section, shall list the status of any previously reported planned or potential actions, and shall list any new planned or potential actions that fall within subsection (a)(i). Such status reports shall thereafter be provided to these officials at least every 30 days for the duration of the national emergency and may be combined, as appropriate, with any other reports required by this order.

(d) The Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works, shall be available to consult promptly with agencies and to take other prompt and appropriate action concerning the application of the emergency Army Corps permitting provisions. The Administrator of the EPA shall provide prompt cooperation to the Secretary of the Army and to agencies in connection with the discharge of the responsibilities described in this section.

Sec. 5. *Endangered Species Act (ESA) Emergency Consultation Regulations.*

(a) No later than 30 days from the date of this order, the heads of all agencies tasked in this order shall:

(i) identify planned or potential actions to facilitate the Nation's energy supply that may be subject to the regulation on consultations in emergencies, 50 CFR 402.05, promulgated by the Secretary of the Interior and the Secretary of Commerce pursuant to the Endangered Species Act ("ESA"), 16 U.S.C. 1531 *et seq.*; and

(ii) provide a summary report, listing such actions, to the Secretary of the Interior, the Secretary of Commerce, the OMB Director, the Director of the National Economic Council, and the Chairman of CEQ. Such report may be combined, as appropriate, with any other reports required by this order.

(b) Agencies are directed to use, to the maximum extent permissible under applicable law, the ESA regulation on consultations in emergencies, to facilitate the Nation's energy supply.

(c) Within 30 days following the submission of the initial summary report described in subsection (a)(ii) of this section, the head of each agency shall provide a status report to the Secretary of the Interior, the Secretary of Commerce, the OMB Director, the Director of the National Economic Council, and the Chairman of CEQ. Each such report shall list actions taken within the categories described in subsection (a)(i) of this section, the status of any previously reported planned or potential actions, and any new planned or potential actions within these categories. Such status reports shall thereafter be provided to these officials at least every 30 days for the duration of the national emergency and may be combined, as appropriate, with any other reports required by this order. The OMB Director may grant discretionary exemptions from this reporting requirement.

(d) The Secretary of the Interior shall ensure that the Director of the Fish and Wildlife Service, or the Director's authorized representative, is available to consult promptly with agencies and to take other prompt and appropriate action concerning the application of the ESA's emergency regulations. The Secretary of Commerce shall ensure that the Assistant Administrator for Fisheries for the National Marine Fisheries Service, or the Assistant Administrator's authorized representative, is available for such consultation and to take such other action.

Sec. 6. *Convening the Endangered Species Act Committee.* (a) In acting as Chairman of the Endangered Species Act Committee, the Secretary of the Interior shall convene the Endangered Species Act Committee not less than quarterly, unless otherwise required by law, to review and consider any lawful applications submitted by an agency, the Governor of a State,

or any applicant for a permit or license who submits for exemption from obligations imposed by Section 7 of the ESA.

(b) To the extent practicable under the law, the Secretary of the Interior shall ensure a prompt and efficient review of all submissions described in subsection (a) of this section, to include identification of any legal deficiencies, in order to ensure an initial determination within 20 days of receipt and the ability to convene the Endangered Species Act Committee to resolve the submission within 140 days of such initial determination of eligibility.

(c) In the event that the committee has no pending applications for review, the committee or its designees shall nonetheless convene to identify obstacles to domestic energy infrastructure specifically deriving from implementation of the ESA or the Marine Mammal Protection Act, to include regulatory reform efforts, species listings, and other related matters with the aim of developing procedural, regulatory, and interagency improvements.

Sec. 7. Coordinated Infrastructure Assistance. (a) In collaboration with the Secretaries of Interior and Energy, the Secretary of Defense shall conduct an assessment of the Department of Defense's ability to acquire and transport the energy, electricity, or fuels needed to protect the homeland and to conduct operations abroad, and, within 60 days, shall submit this assessment to the Assistant to the President for National Security Affairs. This assessment shall identify specific vulnerabilities, including, but not limited to, potentially insufficient transportation and refining infrastructure across the Nation, with a focus on such vulnerabilities within the Northeast and West Coast regions of the United States. The assessment shall also identify and recommend the requisite authorities and resources to remedy such vulnerabilities, consistent with applicable law.

(b) In accordance with section 301 of the National Emergencies Act (50 U.S.C. 1631), the construction authority provided in section 2808 of title 10, United States Code, is invoked and made available, according to its terms, to the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works, to address any vulnerabilities identified in the assessment mandated by subsection (a). Any such recommended actions shall be submitted to the President for review, through the Assistant to the President for National Security Affairs and the Assistant to the President for Economic Policy.

Sec. 8. Definitions. For purposes of this order, the following definitions shall apply:

(a) The term "energy" or "energy resources" means crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, the kinetic movement of flowing water, and critical minerals, as defined by 30 U.S.C. 1606 (a)(3).

(b) The term "production" means the extraction or creation of energy.

(c) The term "transportation" means the physical movement of energy, including through, but not limited to, pipelines.

(d) The term "refining" means the physical or chemical change of energy into a form that can be used by consumers or users, including, but not limited to, the creation of gasoline, diesel, ethanol, aviation fuel, or the beneficiation, enrichment, or purification of minerals.

(e) The term "generation" means the use of energy to produce electricity or thermal power and the transmission of electricity from its site of generation.

(f) The term "energy supply" means the production, transportation, refining, and generation of energy.

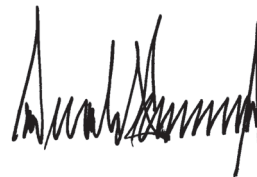
Sec. 9. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be "Donald Trump", located on the right side of the page.

THE WHITE HOUSE,
January 20, 2025.

Implementation of Special Emergency Processing Procedures Under E.O. 14156 for the State of Mississippi

1. Confirm whether the activity meets the criteria for an energy-related emergency per the E.O.
2. Assign ORM2 identification number, using appropriate naming convention, and request additional information, if necessary.
3. When entering the permit action in ORM2, make sure that under the permit-type tab (Nationwide Permit [NWP], Regional General Permit [RGP], Programmatic General Permit [PGP], Letter of Permission [LOP], or Standard Individual Permit [SIP]), you scroll to the bottom, expand the “additional items” section, and next to “24 or 34. Emergency event” click the drop down and select appropriate option (“E.O. 14156”?).
5. Determine the appropriate type of Department of the Army (DA) authorization for the proposed activity: NWP, RGP, PGP, LOP, or SIP.
6. Complete as much of the initial data entry as possible, such as:
 - a. Contact Information-Name, address and telephone numbers of the property owner(s), the prospective permittee (project proponent), the consultant, and/or the agent, the entity responsible for project operation, maintenance, and monitoring;
 - b. Location-Provide city, county, state, waterway name, latitude and longitude. Provide a vicinity map marking the location of the project;
 - c. A description of the proposed activity and its purpose; and
 - d. Other pertinent information such as aquatic resources and jurisdictional determination.
7. Determine whether the proposed activity may require a Section 408 permission. If so, coordinate with the Section 408 program.

Vicksburg District’s 408 coordinator reports to the Operations Division, but Regulatory staff will work with the 408 coordinator to synchronize and prioritize reviews. Nashville District’s 408 coordinator reports to the Regulatory Division, which helps synchronize and prioritize reviews. Memphis District’s 408 coordinator reports to the Engineering & Construction Division but Regulatory staff will work with the 408 coordinator to synchronize and prioritize reviews. Mobile District’s 408 coordinator reports to the Planning and Environmental Division but Regulatory staff will work with the 408 coordinator to synchronize and prioritize reviews.
8. Add appropriate sub actions to ORM2, such as:
 - a. Applicant Information Request

- b. Section 7 of Endangered Species Act
- c. Section 106 of the National Historic Preservation Act
- d. Tribal coordination/consultation
- e. Section 401 Water Quality Certification
- f. Coastal Zone Management Act consistency determination
- g. Essential Fish Habitat consultation
- h. Internal Corps Coordination
- i. Coordinate with Applicant/Agent
- j. Coordinate with External Agency (such as Wild and Scenic Rivers Act consultation, state natural resource agencies)

9. Significant Impact. Provide a summary of any consultations with the Council on Environmental Quality in the event the emergency response would result in significant environmental impact, and justification that the activity proposed is the minimum necessary to control the immediate impacts of the emergency in accordance with CEQ guidance on emergencies, including CEQ Memorandum, Emergencies and the National Environmental Policy Act Guidance, 18 December 2024.

10. Permit Processing and Documentation:

- a. GP. If the energy activity would satisfy the terms and conditions of an NWP, RGP, or PGP, then you must prepare the Corps Regulatory Headquarters' template (HQ template) documentation memorandum and verification letter required for an NWP, RGP or PGP; or
- b. LOP. If the energy activity will be authorized by an LOP, then you must prepare the HQ template combined decision document for LOPs and an authorization letter; or
- c. SIP. Should the division engineer authorize the use of special procedures, the district engineer or his designee may issue an Individual Standard Permit. The HQ template combined decision document for a standard permit and DA permit form shall be used. In cases of imminent and substantial endangerment to the health or welfare of a person or a significant loss of property, the district engineer or his/her designee shall first provide the list of the special conditions by e-mail, which the prospective permittee shall acknowledge by return e-mail, as being acceptable.
- d. The documentation for GPs, LOPs, and SIPs, should include summaries of comments received from the appropriate federal, state and local agencies, tribes, and the public and the district's evaluation of those comments. Activities authorized by GPs might not have involved coordination with other entities.

11. Timing. Districts must issue written authorizations for activities under special emergency procedures within 30 business days, unless extenuating circumstances arise. In such cases, authorization will be provided as soon as possible after the MSC

commander approves proceeding with emergency procedures. This is contingent upon receiving a complete application or pre-construction notification and fulfilling the requirements of Section 106 of the National Historic Preservation Act, Section 7 of the Endangered Species Act, and other relevant laws and regulations.

12. After-the-fact permits. A potential safety issue could occur as a result of work stoppage in response to an alleged violation of Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899 and/or Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended. In these situations, the district engineer may allow work to continue (subject to appropriate limitations and conditions) while the alleged violation is being resolved [See 33 CFR §§ 326.3 (c)(4) and (d)(1)]. Initial corrective measures to address the safety concerns may also be specified by the district engineer. In addition, generally work can continue in upland areas (away from the alleged violation and in those areas of waters of the U.S. where the ongoing work is in compliance with an existing Corps' permit).

13. Permittee's responsibility. After approved emergency activities requiring DA authorization have been completed, the district may require the permittee, through a permit condition, to submit the following information to the Corps:

- a. Description of completed work including any required restoration or mitigation activities;
- b. Delineation of the amount and location of acres of aquatic resources impacted; and
- c. As-built drawings.

PROCESSES

- a. The district should fulfill as many standard procedures at 33 CFR § 325.2(a) as are reasonably tailored to the energy emergency situation, but the district will not delay a timely response because of any standard procedures.
- b. Water quality certification. Section 401(a) of the Clean Water Act and 33 CFR § 325.2(b)(1)(ii) preclude the Corps district from issuing a permit until Section 401 water quality certification has been obtained or has been waived, or if water quality certification has been denied. This remains true in emergency situations. If the activity requiring DA authorization is not eligible for a general permit where water quality certification has been granted (with or without conditions) or waived for the issuance of that general permit, an individual water quality certification is required to be obtained or waived. A waiver may be deemed to have occurred if the certifying authority has not granted or denied water quality certification prior to the end of the established reasonable period of time (RPOT) for the water quality certification request. For the purpose of emergency permitting, the district should seek agreement for a RPOT of 25 days.
 - i. 40 CFR § 121.6(b) - The federal agency and the certifying authority may jointly agree in writing to the RPOT for the certifying authority to act on the request for certification, provided the RPOT does not exceed one (1) year from the date that the request for certification was received. Such written agreements may establish categorical reasonable periods of time.
 - ii. 40 CFR § 121.6(c) - If the federal agency and the certifying authority do not agree in writing on the length of the RPOT, the reasonable period of time shall be six (6) months.
 - iii. For an activity that requires a water quality certification or waiver, if water quality certification has not been issued or waived for the issuance of a general permit, the district may issue a provisional notification instructing them to provide a copy of the water quality certification or waiver to the district for the general permit decision. If the emergency activity requires an individual permit and water quality certification or waiver is required, the district may issue a provisional notification instructing them to provide a copy of the water quality certification or waiver to the district for the individual permit decision.
- c. Coastal Zone Management Act (CZMA) Consistency Determinations. Section 307(c) of the CZMA of 1972 requires any non-federal applicant for a federal license or permit to conduct an activity affecting land or water uses in the state's coastal zone to furnish a certification that the proposed activity will comply with

the state's coastal zone management program. Generally, no permit will be issued until the state has concurred with the non-federal applicant's certification. For an activity that requires a CZMA consistency concurrence or a presumption of concurrence, if a concurrence or presumption of concurrence has not been issued for the issuance of a general permit, the district may issue a provisional notification instructing them to provide a copy of the CZMA consistency concurrence to the district for the general permit decision. If the emergency activity is to be authorized by individual permit and CZMA consistency concurrence or a presumption of concurrence is required, the district may issue a provisional notification instructing them to provide a copy of the CZMA consistency concurrence to the district for the individual permit decision.

d. Endangered Species Act (ESA) Section 7.

- i. If the district engineer determines an emergency energy related action may affect a listed species or designated critical habitat, the district will coordinate with the USFWS and/or NMFS (depending on which listed species or designated critical habitat may be affected) to ascertain measures which will ensure that the emergency actions are not likely to result in a take of a species or jeopardize the continued existence of the listed species or destroy or adversely modify critical habitat in the manner provided for in 50 CFR 402.05. The term emergency is defined in the USFWS's and NMFS's section 7 consultation regulations at 50 CFR § 402.05(a) as "...situations involving acts of God, disasters, casualties, national defense or security emergencies, etc."
- ii. Pursuant to 50 CFR § 402.05(b), "[f]ormal consultation shall be initiated as soon as practicable after the emergency is under control. The Federal agency shall submit information on the nature of the emergency action(s), the justification for the expedited consultation, and the impacts to endangered or threatened species and their habitats." Information submitted by the Corps will include:
 - iii. A description of the emergency energy-related action and why it was needed;
 - iv. Justification for the expedited consultation prior to implementation of the action; and
 - v. Impacts of the action on listed species or critical habitat.
- vi. If formal consultation is required, as soon as practicable after the emergency is under control, the action agency initiates formal consultation with the USFWS and/or the NMFS if listed species or designated critical habitat have been adversely affected. Although formal consultation occurs after the response to the emergency, procedurally it is treated like any other formal consultation.
- vii. If, after the district coordinates with the USFWS and/or the NMFS to obtain recommendations to minimize the effects of the emergency response action listed species or their critical habitat, and the district determines the emergency response action may affect, but is not likely to adversely affect

listed species or their critical habitat, the section 7 consultation process can be completed if the USFWS and/or the NMFS issue a written concurrence for the “may affect, not likely to adversely affect” determination. That written concurrence may be dependent on the district including measures to minimize effects to listed species and designated critical habitat as permit conditions in the DA authorization.

- viii. For adverse effects to listed species and designated critical habitat, at the conclusion of consultation USFWS and/or NMFS will provide their opinion on the effects of the emergency action on listed species and critical habitat.

e. National Historic Preservation Act Section 106.

- i. The Advisory Council on Historic Preservation has provided information regarding how the Section 106 emergency procedures identified in 36 CFR § 800.12(b) for emergency actions declared under the *E.O. 14156*.
 - 1) Agencies should follow the emergency procedures included in agreement documents if a project already had executed an agreement document under Section 106.
 - 2) Agencies should follow 36 CFR § 800.12(b)(2) where there is not existing agreement document, which would require agency notification to the ACHP, SHPO/THPO, and Tribes/NHO with an opportunity to comment within seven (7) days. The ACHP would support additional time to comment should the schedule allow. (Note: 36 CFR § 800.12(b)(2) further states the following: “If the agency official determines that circumstances do not permit seven days for comment, the agency official shall notify the Council, the SHPO/THPO and the Indian tribe or Native Hawaiian organization and invite any comments within the time available.”)
 - 3) The ACHP has extended the use of 36 CFR § 800.12(b)(2) throughout the duration of the above-mentioned E.O., until its rescinded.
 - 4) Section 110(f) of the National Historic Preservation Act which addresses National Historic Landmarks would still require agencies to avoid actions that would harm National Historic Landmarks and include the National Park Service in the process.

Applicant Submittals

The applicant must provide the following information to the respective District Office via the District's office's email or via the Regulatory Request System:

a. Name of responsible party (having legal interest to perform the work) and day-time phone number. Agent representing the applicant must provide written verification of their designation as agent.

b. Work Description:

- i. The description of work must include an explanation of the nature and circumstance of the emergency and why the proposed actions are necessary to control the immediate impacts of the emergency;
- ii. The project description must include all proposed new work, and any work completed and/or begun without prior written authorization from the Corps;
- iii. Dredging: Provide area (square feet) of area to be dredged and estimated cubic yards of material to be dredged. Provide location of disposal area and retention method of dredged material;
- iv. Filling of Waters and Wetlands: Provide area (square feet) of area to be filled, type of waters or wetlands, and estimated cubic yards of material that will be placed in waters or wetlands. Provide type and source of fill material and retention method;
- v. Legible Site Plan showing proposed work area: Construction drawings, if available, are to be provided;
- vi. Vicinity Map showing the work area: Street address, city, county, state, include Section, Township, and Range, etc.;
- vii. GIS shapefiles of project site plan, waters of the United States impact boundaries;
- viii. Statement from applicant acknowledging the following:
 - 1) They will perform all mitigation required by Corps;
 - 2) The work would be performed in a manner that would avoid and minimize impact to waters of the United States to the maximum extent practicable;
 - 3) Should the permittee discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by the Corps, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places;
 - 4) Description of the potential impacts that may occur to species federally listed as threatened or endangered under the Endangered Species Act, or to designated critical habitat;
 - 5) The work would be completed in an expeditious manner; and

- 6) In areas of temporary aquatic resource fill, the impacted area would be restored as near as possible to pre-emergency conditions.
- 7) If the work may result in a discharge into waters of the United States, the project proponent will seek water quality certification or a waiver from the appropriate certifying authority.
- 8) If the work will affect a coastal use or resource, the project proponent will request coastal zone consistency concurrence from the appropriate coastal management agency.

