

ALTERNATIVE ARRANGEMENTS FOR NEPA COMPLIANCE

Alternative Arrangements for Compliance with the National Environmental Policy Act amid the National Energy Emergency

On January 20, 2025, President Donald J. Trump declared a national energy emergency and directed the heads of executive departments and agencies, including the Secretary of the Interior, to “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” (Sec. 2(a), Executive Order (EO) 14156, titled “Declaring a National Energy Emergency”). The definition of energy resources includes “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)” (section 8(a), EO 14156).

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:

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.

- 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.
4. 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.
5. The project applicant must agree to:
 - a. operate in accordance with the application approved in 4;
 - b. take measures to mitigate reasonably foreseeable significant adverse effects on the quality of the human environment; and

- c. abide by applicable Federal (e.g., Clean Water Act, Clean Air Act), State, and local environmental laws. (See Attachment 1)

During the national energy emergency, these alternative arrangements for NEPA compliance for energy-related projects (as defined in 1(a)–(b) above) shall remain applicable unless superseded by subsequent alternative arrangements for NEPA compliance. If 43 CFR 46.150 is rescinded or revised during the national energy emergency, these alternative arrangements for NEPA compliance for energy-related projects (as defined in 1(a)–(b) above) shall remain applicable unless explicitly superseded by interim or final guidance or regulations.

This document and the environmental documents prepared under these procedures satisfy 43 CFR 46.150(b), which requires that the Responsible Official “document in writing the determination that an emergency exists and describe the responsive action(s) taken at the time the emergency exists.”



Adam Suess,
Acting Assistant Secretary – Land and Minerals Management.



Eva Vrana,
Deputy Assistant Secretary – Policy, Management and Budget; Designee of the Assistant Secretary – Policy, Management and Budget



Karen Budd-Falen,
Acting Deputy Secretary.

ATTACHMENT 1

Request for Energy Project Coverage under the Department of the Interior’s Alternative Arrangements for Compliance with the National Environmental Policy Act

ATTN: [APPROPRIATE DISTRICT/STATE/REGIONAL OFFICE CONTACTS OF THE FEDERAL ACTION AGENCY]

Company name: [INSERT COMPANY NAME]

Project name: [INSERT COMPANY NAME]

Project city, state: [INSERT INFORMATION]

Lead agency: [INSERT LEAD AGENCY NAME]

Our company, [INSERT COMPANY NAME], requests that the Department of the Interior apply its alternative arrangements for complying with the National Environmental Policy Act when evaluating [INSERT PROJECT NAME] amid the national energy emergency. (See “Alternative Arrangements for Compliance with the National Environmental Policy Act amid the National Energy Emergency,” April 23, 2025.)

The latest version of the [proposed plan of operation or other application] for [INSERT PROJECT NAME] is attached. [ATTACH PLAN OF OPERATION OR OTHER APPLICATION]

If the attached [plan of operation or other application] is approved, our company agrees to the following, pursuant to the Department’s “Alternative Arrangements for Compliance with the National Environmental Policy Act amid the national energy emergency”; [INSERT COMPANY NAME] shall:

1. operate in accordance with the approved [plan of operations or other application];
2. take measures to mitigate reasonably foreseeable significant adverse effects on the quality of the human environment; and
3. abide by applicable federal (e.g., Clean Water Act, Clean Air Act), state, and local environmental laws.

Signature

Date

Name

Title

ALTERNATIVE PROCEDURES FOR INFORMAL SECTION 7 CONSULTATION

Alternative Procedures for Informal, Expedited Consultation under Section 7 of the Endangered Species Act for Energy Projects amid the National Energy Emergency

On January 20, 2025, President Donald J. Trump declared a national energy emergency and directed the heads of executive departments and agencies, including the Secretary of the Interior, to “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” (Sec. 2(a), Executive Order (EO)14156, titled “Declaring a National Energy Emergency”). The definition of energy resources includes “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)” (section 8(a), EO 14156).

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). Paul Souza, who is the Regional Director exercising the delegated authority of the U.S. Fish and Wildlife Service (FWS) Director, 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. (See Attachment 1)
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.
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.

During the national energy emergency, these alternative procedures for informal, expedited section 7 consultation shall remain applicable for these particular projects unless superseded by subsequent alternative procedures for informal, expedited section 7 consultation. If 50 CFR 402.05 is rescinded or revised during the national energy emergency, these alternative procedures for informal, expedited section 7 consultation shall remain applicable unless explicitly superseded by interim or final guidance or regulations.

A handwritten signature in black ink, appearing to read "Adam Suess", with a stylized flourish at the end.

Adam Suess,

Acting Assistant Secretary – Land and Minerals Management

ATTACHMENT 1

Request for Energy Project Coverage under the Department of the Interior's
Alternative Procedures for Informal, Expedited Consultation under Section 7 of the Endangered
Species Act for Energy Projects amid the National Energy Emergency

ATTN: [APPROPRIATE DISTRICT/STATE/REGIONAL OFFICE CONTACTS OF THE
FEDERAL ACTION AGENCY]

CC: Paul Souza, Exercising the Delegated Authority of the Director of the Fish and Wildlife
Service

Company name: [INSERT COMPANY NAME]

Project name: [INSERT COMPANY NAME]

Project city, state: [INSERT INFORMATION]

Lead agency: [INSERT LEAD AGENCY NAME]

Our company, [INSERT COMPANY NAME], requests that [INSERT PROJECT NAME] is
covered by the Department of the Interior's alternative procedures for informal, expedited
section 7 consultation under the Endangered Species Act amid the national energy emergency.

The latest version of the [proposed plan of operation or other application] for [INSERT
PROJECT NAME] is attached. [ATTACH PLAN OF OPERATION OR OTHER
APPLICATION]

Signature

Date

Name

Title

EMERGENCY PROCESS FOR SECTION 106 COMPLIANCE

Using the Emergency Provisions to Comply with Section 106 of the National Historic Preservation Act in Response to the National Energy Emergency

On January 20, 2025, President Donald J. Trump declared a national energy emergency and directed the heads of executive departments and agencies, including the Secretary of the Interior, to “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” (Sec. 2(a), Executive Order (EO) 14156, titled “Declaring a National Energy Emergency”). The definition of “energy resources” in the declaration includes “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)” (section 8(a), EO 14156).

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.

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.¹ 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 the 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).

¹ On February 25, 2025, the ACHP issued guidance on the use of the emergency provisions in the regulations (36 C.F.R. § 800.12) implementing Section 106 of the NHPA relating to EO 14156. The ACHP’s guidance implicitly interprets its Section 106 regulations regarding emergencies, identified in the regulations as a “disaster or emergency declared by the President . . . , or another immediate threat to life or property,” 36 CFR § 800.12(b), as applying to the energy emergency declaration. The guidance also extends the time in which an agency may use the emergency provisions for an applicable undertaking relating to EO 14156 from 30 days to a period coinciding with the duration of the emergency declaration.

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

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. 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.
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).

During the national energy emergency, these alternative procedures described herein for energy-related projects will remain applicable unless superseded by subsequent alternative procedures for section 106 compliance. If the ACHP rescinds or revises the section 106 regulations or the emergency provisions during the national energy emergency, the Department will continue to rely on the alternative procedures that have already been used to demonstrate compliance with section 106 of the NHPA unless explicitly superseded by interim or final guidance or regulations. Following termination or expiration of the national energy emergency, the Department will not use the emergency alternative procedures for section 106 compliance and instead will comply with the standard section 106 process.



Adam Suess,
Acting Assistant Secretary – Land and Minerals Management.

ATTACHMENT 1

Request to Use the Department of the Interior's Alternative Procedures for Compliance with
Section 106 of the National Historic Preservation Act for an Energy Resources Project during the
National Energy Emergency

ATTN: [APPROPRIATE DISTRICT/STATE/REGIONAL OFFICE CONTACTS OF THE
FEDERAL ACTION AGENCY]

Company name: [INSERT COMPANY NAME]
Project name: [INSERT COMPANY NAME]
Project city, state: [INSERT INFORMATION]
Lead agency: [INSERT LEAD AGENCY NAME]

Our company, [INSERT COMPANY NAME], requests to use the Department of the Interior's
emergency provisions for [INSERT PROJECT NAME] to comply with section 106 of the
National Historic Preservation Act because it will provide an essential and immediate response to
the national energy emergency, as declared in Executive Order 14156.

The latest version of the [proposed plan of operation or other application] is attached. [ATTACH
PLAN OF OPERATION OR OTHER APPLICATION]

If the attached [plan of operation or other application] is approved, our company agrees to
implement, to the extent prudent and feasible, measures that avoid or minimize harm to historic
properties.

Signature

Date

Name

Title