

PUBLIC NOTICE

US Army Corps
of Engineers

New York District
Jacob K. Javits Federal Building
26 Federal Plaza
New York, New York 10278-0090
ATTN: Regulatory Branch

Buffalo District
478 Main Street
Buffalo, New York 14202
ATTN: Regulatory Branch

**Special Emergency Processing
Procedures for the State of New
York**

Issue Date: April 15, 2025

Public Notice Announcing Special Emergency Processing Procedures for the State of New York

TO WHOM IT MAY CONCERN: The purpose of this notice is to advise the public that the United States (U.S.) Army Corps of Engineers, New York District and Buffalo District (the Districts) have established special emergency processing procedures (Enclosures 1-2) for the State of New York in accordance with 33 CFR § 325.2(e)(4) for the National Energy Emergency established by Executive Order (EO) 14156 – Declaring a National Energy Emergency (Enclosure 3), 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 EO 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 (DA) 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 EO 14156, the President has found that these activities 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 application under standard permitting procedures.

The purpose of this public notice is to announce the establishment of the special emergency processing procedures for the purposes of EO 14156 and provide information to the public about these special emergency processing procedures.

If you have any questions concerning these special emergency processing procedures, please contact the New York District at (917) 790-8511 or CENAN-R-Permit-App@usace.army.mil and the Buffalo District at (716) 879-4330 or LRBRegInquiries@usace.army.mil

Martin P. Wargo
Martin P. Wargo
Chief, Regulatory Branch
Buffalo District

Stephan A. Ryba
Stephan A. Ryba
Chief, Regulatory Branch
New York District

**Enclosure 1 – Special Emergency Processing Procedures for Department of the Army
Authorizations for Certain Energy Activities in New York State Subject to Executive Order (EO)
14156, Declaring a National Energy Emergency**

1. Procedures:

The districts will fulfill as many standard procedures at 33 CFR § 325.2(a) as are reasonably tailored to the energy emergency situation, but the districts will not delay a timely response because of any standard procedures.

a. Public Notices.

- i. For activities requiring standard individual permits, reasonable efforts tailored to the energy emergency, such as including a 7 to 15 calendar day public notice comment period, will be made by district regulatory personnel to explain the rationale for the procedures and to receive comments from interested federal, state, and local agencies, tribes, and the affected and interested public.

b. Water Quality Certification (WQC).

- i. Section 401(a) of the Clean Water Act and 33 CFR § 325.2(b)(1)(ii) preclude the districts from issuing a permit until a Section 401 WQC has been obtained or has been waived, or if a WQC has been denied. This remains true in emergency situations. If the activity requiring DA authorization is not eligible for a general permit where a WQC has been granted (with or without conditions) or waived for the issuance of that general permit, an individual WQC is required to be obtained or waived. A waiver may be deemed to have occurred if the certifying authority has not granted or denied WQC prior to the end of the established reasonable period of time (RPOT) for the WQC request.
- ii. For the purpose of emergency permitting, districts are seeking an agreement for a RPOT of 25 calendar days for 401 WQC requests requiring written coverage under a state or tribal WQC.
- iii. 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.
- iv. 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.
- v. For an activity that requires a WQC or waiver, if a WQC has not been issued or waived for the issuance of a general permit, the districts may issue a provisional notification instructing them to provide a copy of the WQC or waiver to the districts for the general permit decision. If the emergency activity requires an individual permit and WQC or waiver is required, the districts may issue a provisional notification instructing them to provide a copy of the WQC or waiver to the districts for the individual permit decision.

c. Endangered Species Act (ESA) Section 7.

- i. The districts will utilize the existing Standard Local Operating Procedures for Endangered and Threatened Species (SLOPES) with the U.S. Fish and Wildlife Service (USFWS) to make effects determinations. Likewise, the existing 2017 Not Likely to Adversely Affect (NLAA) programmatic agreement will be utilized for consultation with National Marine Fisheries Service (NMFS).
- ii. The districts are also actively coordinating with USFWS and NMFS to identify and implement other consultation efficiencies to supplement the SLOPES and NLAA agreement for eligible projects. Until additional coordination procedures are implemented, the districts will follow the procedures outlined below for projects that are determined to have adverse effect listed species or designated critical habitat.
- iii. Consultation not covered by the SLOPES and/or NLAA agreement. If an emergency energy related action may affect a listed species or designated critical habitat, the districts will coordinate with the USFWS and/or NMFS 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.
- iv. 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.”
- v. Information submitted by the Corps will include:
 - 1) A description of the emergency energy-related action and why it was needed;
 - 2) Justification for the expedited consultation prior to implementation of the action;
 - 3) 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 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 districts coordinates with the USFWS and/or NMFS to obtain recommendations to minimize the effects of the emergency response action listed species or their critical habitat, and the districts 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 NMFS issue a written concurrence for the “may affect, not likely to adversely affect” determination. That written concurrence may be dependent on the districts 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.

d. Coastal Zone Management Act (CZMA) Consistency Determinations.

- i. 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.
- ii. 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 districts may issue a provisional notification instructing them to provide a copy of the CZMA consistency concurrence to the districts 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 districts may issue a provisional notification instructing them to provide a copy of the CZMA consistency concurrence to the districts for the individual permit decision.

e. National Historic Preservation Act (NHPA) Section 106.

- i. The Advisory Council on Historic Preservation (ACHP) has provided information regarding how the Section 106 emergency procedures identified in 36 CFR § 800.12(b) for emergency actions declared under the EO 14156. The districts have entered into a programmatic agreement (PA) with the New York State Historic Preservation Office (NYSHPO) which provides a streamlined and expedited procedure for certain activities. The districts will follow the PA procedures where applicable, unless alternative emergency procedures are developed with NYSHPO and approved by ACHP. Where the PA procedures do not apply or do not provide the necessary expedited review, the districts will follow the ACHP emergency procedures.
 - 1) Absent alternative procedures, the districts will follow 36 CFR § 800.12(b)(2), which would require agency notification to the ACHP, SHPO, Tribal Historic Preservation Officer (THPO), and Tribes/Native Hawaiian Organizations (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.")
 - 2) The ACHP has extended the use of 36 CFR § 800.12(b)(2) throughout the duration of the above-mentioned EO, until its rescinded.
 - 3) Section 110(f) of the NHPA which addresses National Historic Landmarks would still require agencies to avoid actions that would harm National Historic Landmarks and include the National Park Service (NPS) in the process.

ii. Appendix C to 33 CFR Part 325

- 1) Emergency Procedures. The procedure for processing permits in emergency situations are described at 33 CFR § 325.2(e)(4). In an emergency situation the districts engineer will make reasonable efforts tailored to the emergency to receive comments from the SHPO, the THPOs and the ACHP, when the proposed undertaking can reasonably be expected to affect a potentially eligible or designated historic property and will comply with the provisions of this Appendix to the extent time and the emergency situation allows.

f. Tribal consultation and the Corps' tribal trust responsibilities.

- i. The New York and Buffalo Districts recognize the sovereign status of American Indian Tribal Governments (federally-recognized American Indian Tribes), and our obligation for meaningful consultation on a government-to-government basis. The Districts are committed to fulfilling our nation's trust responsibility to federally-recognized American Indian Tribes in accordance with the United States Constitution, Treaties, Presidential Executive Orders, statutes, and the Supreme Court decisions that give rise to and define that responsibility. For permit applications which will be processed subject to these emergency procedures, tribal consultation will occur separate from, but concurrent with, the public notice time period. Coordination will include a copy of the public notice, timeline of the review process, points-of-contact, and other relevant information. If there is a potential for impact to cultural resources, or if a federally-recognized American Indian Tribe expresses interest in a project, additional time may be needed to facilitate meaningful government-to-government consultation.

g. Essential Fish Habitat Consultation under the Magnuson-Stevens Act.

- i. The Essential Fish Habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) require federal agencies to consult with NMFS on proposed actions that may adversely affect EFH.
- ii. NMFS's EFH consultation regulations at 50 CFR § 600.920(a)(1) state: "Consultation is required for emergency Federal actions that may adversely affect EFH, such as hazardous material clean-up, response to natural disasters, or actions to protect public safety. Federal agencies should contact NMFS early in emergency response planning but may consult after-the-fact if consultation on an expedited basis is not practicable before taking the action."
- iii. In emergency situations, abbreviated consultations may be conducted under 50 CFR § 600.920(h) ["NMFS and the Federal agency may agree to use a compressed schedule in cases where regulatory approvals or emergency situations cannot accommodate 30 days for consultation..."].
- iv. In emergency situations, expanded consultations may be conducted under 50 CFR § 600.920(i) ["NMFS and Federal agencies may agree to use a compressed schedule in cases where regulatory approvals or emergency situations cannot accommodate 60 days for consultation ..."].

h. Section 408 permissions.

- i. Director's Policy Memorandum Civil Works Programs (DPM CW) 2018-10 directs the USACE Regulatory and Section 408 programs to synchronize their reviews under their respective authorities to be responsive to Administration priorities and support efforts toward streamlined federal environmental reviews. New York District's 408 coordinators report to the Operations Division, which helps synchronize the 408 and regulatory reviews. Buffalo District's 408 coordinator reports to the Operations and Regulatory Division. New York and Buffalo Districts' business lines that support the technical reviews of 408 requests will prioritize these reviews to avoid/minimize any delay. New York and Buffalo Districts' project managers will collaborate with any other districts' 408 coordinator when projects within the regulatory boundary are also outside of the Civil Work's boundary for each district.

i. Regional General Permit.

- i. New York and Buffalo Districts will work together to explore the utility of creating a Regional General Permit for projects identified by EO 14156 to provide an additional tool to expedite permitting reviews.

j. Permittee's responsibility.

- i. After approved emergency activities requiring Department of the Army 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.
 - c. As-built drawings

Enclosure 2 – 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 as outlined in 27 below:

1. Completed ENG Form 4345 for individual permit requests or ENG Form 6082 for general permit requests or New York State/USACE Joint Permit Application form, as appropriate.
2. In order for the district to evaluate the request for processing the application under the special emergency procedures the applicant must indicate the proposed project is associated with an energy emergency as outlined in Executive Order 14156.
3. 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. (ENG Form 6295 - Authorization to Act as an Agent is preferred)
4. All activities which the applicant plans to undertake which are reasonably related to the same project and for which a Department of the Army permit would be required should be included in the same application. District engineers will reject, as incomplete, any application which fails to comply with this requirement.
5. For projects seeking coverage under Nationwide permit (NWP), include all preconstruction notification required materials, including those outlined in the NAN/LRB regional conditions. Copies of the NWP documents are available via the district websites:
 - NAN website: <http://www.nan.usace.army.mil/Missions/Regulatory/>
 - LRB website: <https://www.lrd.usace.army.mil/Missions/Regulatory/New-York/>
6. A delineation of all aquatic resources located within the project boundary, including rivers, streams (ephemeral, intermittent and perennial), open waters (such as impounded features) and wetlands identified. All wetlands must be delineated in accordance with the 1987 Corps of Engineers Wetland Delineation Manual and the applicable Regional Supplement to the Corps' Wetland Delineation Manual. The extent of waters of the United States must be identified in accordance with the definitions and limits of jurisdiction contained in 33 CFR Part 328 and 33 CFR Part 329. If a delineation has already been verified by this office and remains valid, provide a copy of the verification letter.
7. Site location map(s), including the site of the proposed activity, clearly outlined on United States Geological Survey 7.5-foot quad sheet drawings, county maps, scaled aerial photographs, or other suitable maps, with latitudes and longitudes for the site(s), name of the quad sheet(s) and directions to the site. The map(s) must show the project area in relation to nearby wells, access roads, highways and other roads, and other pertinent features. Identify all base maps, e.g. Buffalo, New York 7.5-minute U.S. Geological Survey (USGS) quadrangle, etc.
8. Plan, profile and cross-section views of the proposed work, both permanent and temporary, relative to waters of the United States (e.g., wetlands, and open waters below the ordinary high water mark), showing areas, types and acreages of waters of the United States to be impacted by the proposed activity. All available drawings must be

provided and must show proposed impacts on appropriately scaled figures.

9. For projects entailing the installation of new or replacement culverts or rehabilitation of existing culverts in streams, the work shall comply with the sizing and installation guidelines as outlined in NWP Regional General Condition G-B Culverts or provide documentation to support a variance request.
10. The total area (acreage) and length (feet) for linear features for each type of waters of the United States proposed to be filled by the proposed activity, and the volume (in cubic yards) and proposed type and source of material to be discharged into each type of aquatic resource. The volume of material (in cubic yards) proposed to be excavated from navigable waters of the United States.
11. If bank stabilization is proposed along both banks of a stream, the linear footage should be provided separately for each bank.
12. A description of how impacts to waters of the United States and associated functions (e.g., water quality and habitat) have been avoided and minimized to the maximum extent practicable within the permit area. Documentation that the amount of area impacted is the minimum necessary to accomplish the project and, in cases where the activity would result in a change to pre-construction elevations and/or contours and/or drainage patterns, a description of the anticipated impacts of the changes, the reason(s) that the changes are necessary, and documentation that the changes would not result in more than a minor adverse impact on the aquatic environment. The applicant should include any other relevant information, including information on hydrology and hydraulics.
13. Description of project purpose and need, including baseline conditions and anticipated conditions upon project construction.
14. The description of the proposed access roads must include such information as the height, width, and length of the road, width of the cleared right-of-way, location of each crossing of a water of the United States, size and spacing of culverts and bridges, and location and dimensions of roadside borrow ditches.
15. Description of any anticipated maintenance activities that propose an impact to a water of the US.
16. If compensatory mitigation is proposed at a Corps-approved mitigation bank and/or In-Lieu Fee (ILF) program, the proposal must include the name of the mitigation bank/ILF program, the number of credits to be secured, and a statement on how these were determined. If a permittee- responsible is proposed, the project proponent must submit a comprehensive mitigation and monitoring plan, for review and approval by this office in accordance with 33 CFR Part 332.
17. A description of potential indirect (secondary) and cumulative impacts or effects to waters of the United States and the human environment in the watershed and vicinity of the proposed activity.
18. For individual permits, information, in report form, concerning the practicability of on-site alternatives in accordance with 33 CFR § 325.1(e) and § 323.6(a). The information must

address compliance with the USEPA's Section 404(b)(1) Guidelines at 40 CFR Part 230. The report should include all applicable information for this office to determine whether an alternative meets the overall project purpose and is available, practicable, would result in fewer adverse effects to the aquatic environment, or would have other significant adverse environmental consequences.

19. Documentation that a request for an individual CWA 401 WQC was submitted to the appropriate certifying authority, including the date of request. If a request for an individual CWA 401 WQC has not been submitted, the applicant must identify the date an individual CWA 401 WQC is anticipated to be requested following the submittal of a pre-filing meeting request to the certifying authority, if required.
20. Information disclosing whether or not any cultural resources protected under the National Historic Preservation Act (NHPA) might be affected by, or found in the vicinity of, the proposed project(s). The applicant must submit a cultural resources report including but not limited to the following:
 - a) A written statement indicating if any such properties may be affected by the proposed project.
 - b) A copy of any completed archaeology or building/structure survey reports. If a survey has not been performed, the statement shall include a list of resources checked in the determination.
 - c) Copies of any available correspondence from the New York State Office of Parks, Recreation, and Historic Preservation State Historic Preservation Officer (SHPO) regarding historic properties.
 - d) Copies of any available correspondence from federally recognized Indian Nations regarding historic properties that may be affected by the project.
 - e) Projects with ground disturbance may have the potential to cause effects to buried historic properties, regardless of occurring outside SHPO designated archaeological sensitive areas. Therefore, the application shall indicate if the ground disturbance will occur in any areas of previously undisturbed soil. For areas with prior disturbance, the application shall include a brief narrative describing the disturbance and its limit (i.e. type of disturbance, size of area with current undisturbed soil, size of area with existing disturbed soils, when the disturbance occurred, an estimate on how deep the soil disturbance extends, etc.) as well as photos of the existing ground disturbance.
 - f) Above ground buildings/structures that are over 50 years old and potentially affected by the project will need to be assessed to determine if they are eligible for the National Register. The application shall: identify any structures present in the project area, which have not already been subject to SHPO review, include photos of the structures, and describe how the project would/would not affect them.

Note 1: Information regarding historic properties may be found at: <https://cris.parks.ny.gov>. In addition, assistance regarding the determination of the presence of historic or cultural resources at or near the project site should be directed to SHPO.

Note 2: If any listed, eligible or potentially eligible properties are present, the applicant shall not begin the activity until notified by the district engineer in writing either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

When needed to evaluate effects to historic properties, the applicant is encouraged to consult with professionals meeting the Professional Qualification Standards as set forth in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716) during this data gathering process. These professionals can assist with compiling the project information discussed above and should provide recommendations as to whether the proposal has the potential to affect historic properties and if further effort is needed to identify or assess potential effects to historic properties. These professionals can also compile preliminary review information to submit to the district engineer as part of the application submittal. The Corps may request additional information and/or surveys be conducted such as a Phase 1 Archaeological Survey or an Architectural Survey. The applicant may choose to conduct pre-coordination with the SHPO prior to submitting a pre-construction notification or Department of the Army permit application. Any correspondence related to this pre-coordination should be provided with the pre-construction notification or Department of the Army permit application.

21. For activities that may affect federally listed threatened or endangered species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation), pursuant to Section 7 of the Endangered Species Act (ESA) the applicant must submit:
 1. A written statement and documentation concerning any Essential Fish Habitat (EFH) and any federally listed or proposed Threatened or Endangered (T&E) species or designated and/or proposed critical habitat that might be affected or located in the vicinity of the project (See Note 2 below).
 2. An official T&E species list printed within 90 days of the application submission, and a copy of any correspondence from the U.S. Fish and Wildlife Service (USFWS) and/or National Oceanic and Atmospheric Administration Fisheries Service (NOAA-Fisheries), regarding the potential presence of T&E species on the project site. An applicant should use the USFWS Information for Planning and Consultation (IPAC) website (<https://ecos.fws.gov/ipac>) as the primary resource to determine if there may be listed Threatened or Endangered species. Information on NOAA-Fisheries (NMFS) species (both T&E and EFH) can be found at: <https://www.greateratlantic.fisheries.noaa.gov/>. Region-specific information on NMFS species (both T&E and EFH) can be found at: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/habitat-conservation/essential-fish-habitat-consultations-greater-atlantic-region>. Region-specific ESA information can be found at: <https://www.fisheries.noaa.gov/topic/consultations>.
 3. For projects where T&E species are listed, a discussion of potential T&E species habitat within the project site (See USFWS T&E website for species habitat information). <https://www.fws.gov/office/new-york-ecological-services-field/new-york-project-reviews>
 4. If there is potential habitat for any T&E species within the project site the following, as applicable, shall be submitted:
 - i. The results of any habitat surveys and presence/absence surveys. Note: all surveys should be coordinated with the USFWS and/or NOAA-Fisheries (NMFS) prior to initiation.
 - ii. A detailed description of the proposed project, including secondary impacts and

approximate proposed project construction schedule of project activities (e.g. land clearing, utilities, stormwater management).

iii. A description of the natural characteristics of the property and surrounding area (e.g. forested areas, freshwater wetlands, open waters, and soils) and a description of surrounding land use (residential, agricultural, or commercial).

iv. A description of the area to be impacted by the proposed project (including the species, typical sizes (d.b.h.) and number or acres of trees to be removed, substrate of stream, etc.).

v. The location of the above referenced property and extent of any project related activities or discharges clearly indicated on a copy of a USGS 7.5-minute topographic quadrangle (quad) with the name of the quad(s) and latitude/longitude clearly labeled.

vi. A description of conservation measures to avoid, minimize and/or mitigate impacts to listed species.

Note 1: There are no known T&E species or EFH species under the jurisdiction of the NOAA-Fisheries (NMFS) within the Buffalo District. Therefore, all Buffalo District requests for information regarding the presence of T&E species should be directed to the USFWS. In addition, no EFH review is necessary within the following New York District counties: Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Otsego, Schenectady, Schoharie and Warren.

Note 2: Please refer to the following websites for further guidance and information relating to regulatory permits & T&E species in New York, including protocols for defining 'vicinity' for the Indiana and Northern long-eared bats:

<https://www.lrd.usace.army.mil/Missions/Regulatory/New-York/>

22. For proposed activities where the Corps is not the lead federal agency, the applicant must provide this office with the appropriate documentation to demonstrate compliance with Section 106 of NHPA, and Section 7 of the ESA and if available, documentation demonstrating compliance with the National Environmental Policy Act, such as an Environmental Assessment or Environmental Impact Statement.
23. A statement confirming if the proposed activity will require permission from the Corps pursuant to 33 U.S.C. § 408 (Section 408) because it will alter or temporarily or permanently occupy or use a Corps federally authorized Civil Works project. If yes, describe if a written request for Section 408 has been submitted. Final Department of the Army permit decisions for activities that require Section 408 permission will not be authorized until the Section 408 permission decision is finalized.
24. A restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions.
25. The location of any water intakes in the vicinity of the project.
26. A list of authorizations required by other federal, interstate, state, or local agencies for the work, including all approvals received or denials already made.

27. The project proponent must submit the joint application package, which includes the information above, as follows:
- a. Pre-Construction Notifications and Department of the Army permit applications should be saved as a PDF document, and then submitted to the respective district, as follows:
 - Buffalo District – LRB.NewYork.RegActions@usace.army.mil
 - New York District – CENAN-R-Permit-App@usace.army.mil
- Or via the Corps' Regulatory Request System at: <https://rrs.usace.army.mil/rrs/home>
- b. Electronic documents must have sufficient resolution to show project details. The Pre-Construction Notification or Department of the Army permit application and supporting documents submitted via email must not exceed 25 megabytes (25MB) per email. Multiple emails may be required to transmit documents to ensure the 25MB limit is not exceeded. Alternatively, use of the Department of Defense Secure Access File Exchange (DoD SAFE) service to transfer large files may be requested in your email.
25. Statement from applicant acknowledging the following:

- a. They will perform all mitigation required by Corps;
- b. 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;
- c. Should the permittee discover any previously unknown historic, cultural or archaeological 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;
- d. Description of the potential impacts that may occur to species federally listed as threatened or endangered under the ESA, or to designated critical habitat;
- e. The work would be completed in an expeditious manner;
- f. In areas of temporary aquatic resource fill, the impacted area would be restored as near as possible to pre-emergency conditions;
- g. 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; and
- h. 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.

Note that permit applicants may, and in many cases, will be required to furnish additional information determined by the Corps to be necessary to make a public interest determination, including, where applicable, a determination of compliance with the Section 404(b)(1) Guidelines. Such additional information may include appropriate and practicable mitigation, alternatives, and impacts of the proposed activity on endangered species and cultural resources. The Corps will not delay issuance of a public notice to obtain information necessary to evaluate an application. While this information is not required for a complete application, it is important that such information be provided to the Corps as early in the permit evaluation.

Enclosure 3 – Executive Order 14156 (Declaring a National Energy Emergency)

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.

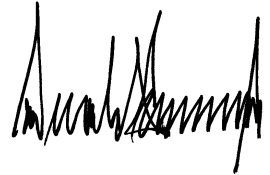
Sec. 9. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(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.