



**US Army Corps
of Engineers®**

SPECIAL PUBLIC NOTICE

National Energy Emergency
Executive Order 14156

Published: April 15, 2025

New England District

TO WHOM IT MAY CONCERN: The purpose of this notice is to advise the public that the U.S. Army Corps of Engineers (USACE), North Atlantic Division has approved use of emergency permit processing procedures in the six New England states (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island and Vermont), in accordance with 33 CFR § 325.2(e)(4), for the National Energy Emergency established by Executive Order (E.O.) 14156, 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 enclosed special emergency processing procedures have been established pursuant to Sec. 4 of E.O. 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, 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.

USACE will use to the maximum extent practicable existing state general permits to review authorizations from prospective applicants for the discharge or dredge of fill materials into waters of the United States and/or work in, over or under navigable waters of the United States associated with energy and energy resource activities which are subject to E.O. 14156. For activities using the special emergency processing procedures, reasonable efforts will be made to solicit and address comments from interested federal, state, and local agencies, tribes, and the affected and interested public on the proposed activities under these procedures.

APPLICATION SUBMITTALS: To apply for use of the emergency permitting processes the applicant must follow the existing application submittal processes, which are provided in the state general permits at: <https://www.nae.usace.army.mil/Missions/Regulatory/State-General-Permits/>. Emails containing an incoming application should include "EO 14156" and the project name in the subject line and request review under this process. Emails including attachments larger than 15 MB may not be receivable through the email system. Please do not send a share site link in emails for USACE to download an application as we have limited access to such sites for security purposes. Please send an email to the appropriate email address below to request a DOD SAFE

File Transfer link to upload documents larger than 15 MB. You can find additional information on the USACE Regulatory Program at: <https://www.nae.usace.army.mil/Missions/Regulatory>.

The purpose of this public notice is to announce the approval of the emergency permit processing procedures for the purposes of E.O. 14156 in Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island and Vermont, and provide information to the public about those special emergency processing procedures. If you have any questions concerning these special emergency processing procedures, please contact us at (978) 318-8338 or the appropriate email address below and put "EO 14156" in the title:

cenae-r-ma@usace.army.mil
cenae-r-ct@usace.army.mil
cenae-r-me@usace.army.mil
cenae-r-ri@usace.army.mil
cenae-r-vt@usace.army.mil
cenae-r-nh@usace.army.mil



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

**U.S. Army Corps of Engineers, New England District, Regulatory
Division, Special Emergency Processing Procedures under
Executive Order 14156**

26 March 2025

1. PURPOSE: The U.S. Army Corps of Engineers (USACE), New England District, Regulatory Division, hereafter "the District," has developed these special emergency processing procedures to authorize energy related activities requiring 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 Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, for energy and critical minerals identification, development, production, transportation, refining, and generation capacity under Executive Order (E.O.) 14156, Declaring a National Energy Emergency.

2. AUTHORITY: Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403), Section 404 of the Clean Water Act (33 U.S.C. § 1344) and/or Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. § 1314).

3. REFERENCES:

a. E.O. 14156 "Declaring a National Energy Emergency" signed 20 January 2025 (90 Fed. Reg. 8433-8437)

b. 33 CFR § 325.2(e)(4) – Emergency procedures

c. CECW-CO Standard Operating Procedures for the United States Army Corps of Engineers Regulatory Program, December 2024

d. CECW-OR Emergency Permit Procedures, 11 December 1997

e. 50 CFR Part 402 – Interagency Cooperation—Endangered Species Act of 1973, as Amended, specifically 50 CFR § 402.05 - Emergencies

f. CEQ Memorandum, Emergencies and the National Environmental Policy Act Guidance, 14 September 2020

g. 36 CFR § 800.12 - Emergency Situations

h. Appendix C to 33 CFR Part 325, Paragraph 14. Emergency Procedures

Enclosure

i. 50 CFR part 600, subpart K – Essential Fish Habitat Consultation under the Magnuson-Stevens Act.

j. 40 CFR Part 121 – State Certification of Activities Requiring a Federal License or Permit

k. 15 CFR Part 930 – Federal Consistency with Approved Coastal Management Programs

4. BACKGROUND:

a. E.O. 14156 includes the following statements:

Sec. 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.

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 process, to facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources, including, but not limited to, on Federal lands. ...

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

Sec. 4. Emergency Regulations and Nationwide Permits under the Clean Water Act...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.

Sec. 8. Definitions. (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).” Per 30 U.S.C. 1606 (a)(3), the term “critical mineral” means any mineral, element, substance, or material designated as critical by the Secretary under subsection (c). The term “critical mineral” does not include— (i) fuel minerals; (ii) water, ice, or snow; (iii) common varieties of sand, gravel, stone, pumice, cinders, and clay.”

b. 33 CFR § 325.2(e)(4), states:

“Division engineers are authorized to approve special processing procedures in emergency situations. 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 application under standard procedures. In emergency situations, the district engineer will explain the circumstances and recommend special procedures to the division engineer who will instruct the district engineer as to further processing of the application. Even in an emergency situation, reasonable efforts will be made to receive comments from interested Federal, state, and local agencies and the affected public. Also, notice of any special procedures authorized and their rationale is to be appropriately published as soon as practicable.”

c. Standard Operating Procedures for the United States Army Corps of Engineers Regulatory Program December 2024 supports each division developing emergency procedures, as well as essential points of contact.

5. 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. Public notices. For activities requiring standard individual permits, the District will make reasonable efforts tailored to the energy emergency 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. The District will require a 7 to 15-day public notice comment period. Emergency procedures are alternative procedures and should not be viewed internally, or communicated to the public, as being the equivalent to a procedural waiver or to the lack of any procedures. They are not to be utilized to avoid providing prior public notice of a proposed project where practicable or to bypass procedural requirements of other laws.

Should a standard individual permit be required for the energy-related activity requiring DA authorization, a public notice will be distributed as soon as practicable to notify all interested federal, state, and local agencies, tribes, and the affected/interested public of the USACE decision to move forward with processing the proposed action under special emergency processing procedures established for the purposes of E.O. 14156. The notice will identify the special procedures and their rationale. Agencies may include, but are not necessarily limited to, the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), U.S. Environmental Protection Agency (USEPA), Tribal Historic Preservation Offices, State Historic Preservation Office (SHPO)s, the Advisory Council on Historic Preservation (ACHP), state resource agencies for the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont, and tribal natural or cultural resource agencies for the following federally recognized Indian tribes in New England: Aroostook Band of Micmacs, Houlton Band of Maliseet Indians, Passamaquoddy Tribe of Indians – Pleasant Point Reservation, Passamaquoddy Tribe of Indians - Indian Township Reservation, Penobscot Nation, Mashpee Wampanoag Tribe, Wampanoag Tribe of Gay Head (Aquinnah), Stockbridge-Munsee Community Band of Mohican Indians, Narragansett Indian Tribe, Mashantucket Pequot Tribe, and Mohegan Tribe of Indians of Connecticut.

The District will follow their current tribal coordination procedures for engaging with tribal natural or cultural resource agencies regarding the pursuit of emergency procedures for identified projects. Records of these contacts and the District's evaluation, including any request for extensions of the public comment period, will be part of the written administrative record for the permit decision.

c. Water quality certification. Section 401(a) of the Clean Water Act and 33 CFR § 325.2(b)(1)(ii) preclude the District from issuing a permit until Section 401 water quality certification (WQC) has been obtained or 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 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. For emergency permitting, the District will 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 WQC 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 WQC or waiver to the District for the general permit decision. If the emergency activity requires an individual permit and WQC or waiver is required, the District may issue a provisional notification instructing them to provide a copy of the WQC or waiver to the District for the individual permit decision.

d. 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.

e. 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 USACE 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.

4. 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.

5. 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.

6. 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.

f. 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.

ii. Appendix C to 33 CFR Part 325

14. Emergency Procedures

The procedures for processing permits in emergency situations are described at 33 CFR § 325.2(e)(4). In an emergency situation the district

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.

iii. *36 CFR Part 800 – Protection of Historic Properties*

§ 800.12 Emergency situations:

(a) Agency procedures. The agency official, in consultation with the appropriate SHPOs/THPOs, affected Indian tribes and Native Hawaiian organizations, and the Council, is encouraged to develop procedures for taking historic properties into account during operations which respond to a disaster or emergency declared by the President, a tribal government, or the Governor of a State or which respond to other immediate threats to life or property. If approved by the Council, the procedures shall govern the agency's historic preservation responsibilities during any disaster or emergency in lieu of §§ 800.3 through 800.6.

(b) Alternatives to agency procedures. In the event an agency official proposes an emergency undertaking as an essential and immediate response to a disaster or emergency declared by the President, a tribal government, or the Governor of a state or another immediate threat to life or property, and the agency has not developed procedures pursuant to paragraph (a) of this section, the agency official may comply with section 106 by:

- (1) Following a programmatic agreement developed pursuant to § 800.14(b) that contains specific provisions for dealing with historic properties in emergency situations; or
- (2) Notifying the Council, the appropriate SHPO/THPO and any Indian tribe or Native Hawaiian organization that may attach religious and cultural significance to historic properties likely to be affected prior to the undertaking and affording them an opportunity to comment within seven days of notification. 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.

(c) Local governments responsible for section 106 compliance. When a local government official serves as the agency official for Section 106 compliance, paragraphs (a) and (b) of this section also apply to an imminent threat to public health or safety as a result of a natural disaster or emergency declared by a local government's chief executive officer or legislative body, provided that if the Council or SHPO/THPO objects to the proposed action within seven (7) days, the agency official shall comply with 36 CFR §§ 800.3 through 800.6.

(d) Applicability. This section applies only to undertakings that will be implemented within 30 days after the disaster or emergency has been formally declared by the appropriate authority. An agency may request an extension of the period of applicability from the Council prior to the expiration of the 30 days.

g. Essential Fish Habitat Consultation under the Magnuson-Stevens Act. The Essential Fish Habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act require federal agencies to consult with NMFS on proposed actions that may adversely affect EFH.

i. 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."

ii. 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..."].

iii. 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. Tribal consultation and the Corps' tribal trust responsibilities. The USACE Regulatory Program recognizes 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. USACE is 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 gave rise to and define that responsibility.

i. Many different statutes, regulations, executive orders, and federal policies direct federal agencies to consult with federally recognized American Indian Tribes including the NHPA, as amended. Section 106 of the NHPA, 54 U.S.C. § 306108 and its implementing regulations at 36 CFR Part 800, requires federal agencies to take into account the effects of projects they carry out, license, or financially assist (undertakings) on historic properties and provide the ACHP a reasonable opportunity to comment on those undertakings. The NHPA also requires that, in carrying out its responsibilities under the Section 106 of the NHPA review process, a federal agency must consult with any federally recognized American Indian Tribe that attaches religious and cultural significance to historic properties that may be affected by the agency's undertakings, 54 U.S.C. § 302706 (b). An accountable process to interact with federally recognized American Indian Tribes is mandated in Executive Order 13175, Presidential Memorandum on Tribal Consultation, Presidential Memorandum on Strengthening Nation-to-Nation Relationships, 26 January 2021, and Corps' Tribal Consultation Policy dated 5 December 2023.

ii. USACE must document all efforts to initiate and carry out consultation with federally recognized American Indian Tribes under E.O. 13175 and the USACE Tribal Consultation Policy. Such documentation, in the form of correspondence, telephone logs, e-mails, etc., should be included in the agency's official Section 106 of the NHPA administrative record. USACE should also keep notes so that the consultation record documents the content of consultation meetings, site visits, and phone calls in addition to information about dates and who participated. Doing so allows agencies and consulting parties to review proceedings and correct any errors or omissions, thus facilitating better overall communication.

iii. While federally recognized American Indian Tribes are included on the public notice distribution list, government-to-government consultation involves steps specific to that form of consultation, and thus public notices are insufficient means to initiate government-to-government consultation. In addition, the public notice should not contain locational and sensitive information related to archeological sites, or any other tribal resource, to protect those sites from harm, theft, or destruction. As reasonable and practicable, the District will consider including the following information when providing project information to federally recognized American Indian Tribes for comment:

1. A copy of the public notice or agency coordination package, the pre-construction notification or permit application, project plans (potential project footprint(s), staging area(s), access road(s), and/ or project alignment(s)), purpose to be served by the proposed project, and any other relevant information such as a cultural resource assessments and/or surveys. Additional information should include a timeline for the review process, points-of-contact, and hyperlinks to any information that may be available online.

2. Some federally recognized American Indian tribes may always want a copy of any cultural resource assessments and/or surveys, while other federally

recognized American Indian tribes may only want to receive the cultural resource assessments and/or surveys at their request.

i. 408 permissions. DPM CW 2018-10 directs the USACE Regulatory and Section 408 programs to synchronize their reviews under their respective authorities, in order to be responsive to Administration priorities and support efforts toward streamlined federal environmental reviews. The District will make the District Engineer aware of any 408 authorizations that may affect a timely regulatory permit decision.

6. PROCESS REVIEW

The District will review the aforementioned processes quarterly, identify those that need to be revisited, updated or modified, and make the appropriate changes.