



**US Army Corps
of Engineers®**

PUBLIC NOTICE

SPECIAL PUBLIC NOTICE

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Missouri

Little Rock District

Emergency Processing Procedures for Activities Subject to Executive Order 14156 (National Energy Emergency)

TO WHOM IT MAY CONCERN: The purpose of this notice is to advise the public that the U.S. Army Corps of Engineers (USACE), Northwestern Division has approved the use of special emergency processing procedures by the Kansas City District, as the lead district in Missouri, in accordance with 33 CFR § 325.2(e)(4) for activities covered by the National Energy Emergency declared in Executive Order (EO) 14156. That EO 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 3 USC§ 301. For the reasons stated in Section 1 of EO 14156, the President has found that insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation's economy, national security, and foreign policy and declared a national emergency on the basis of those findings. The President has directed agencies to use, to the fullest extent possible and consistent with applicable law, emergency USACE permitting provisions to facilitate the Nation's energy supply.

These special emergency processing procedures have been approved 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, where there would be an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if the action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures.

As established by the Kansas City District, the Little Rock District will follow these special emergency processing procedures outlined in EO 14156 in Missouri for our Area of Responsibility (AOR), which was coordinated and implemented with the other four Corps districts in Missouri.

Information about these special emergency processing procedures is attached and located at: <https://www.swl.usace.army.mil/Missions/Regulatory/>.

If you have any questions or need additional information concerning these special emergency processing procedures, please contact the Little Rock District Regulatory Division, US Army Corps of Engineers at (501) 324-5295 or ceswl-reg@usace.army.mil.

Attachments:

Attachment 1. Missouri Emergency Procedures

Attachment 2. Applicant Submittal Requirements

Attachment 3. Other Agency Regulations for Emergency Procedures

Attachment 1 - District Implementation of Special Emergency Processing Procedures Under E.O. 14156 in Missouri for Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act Authorizations

1. Confirm whether the activity meets the criteria for an energy-related emergency per the E.O.
2. Assign ORM2 identification number, using appropriate naming convention, and request additional information, if necessary.
3. Determine the appropriate type of Department of the Army (DA) authorization for the proposed activity: NWP, RGP, PGP, LOP, or SIP.
4. When entering the permit action in ORM2, make sure that under the permit-type tab (Nationwide Permit [NWP], Regional General Permit [RGP], Programmatic General Permit [PGP], Letter of Permission [LOP], or Standard Individual Permit [SIP]), scroll to the bottom, expand the "additional items" section, and next to "24. Emergency event" click the drop down and select appropriate option ("E.O. 14156").
5. Complete as much of the initial data entry as possible, such as:
 - a. Contact Information-Name, address and telephone numbers of the property owner(s), the prospective permittee (project proponent), the consultant, and/or the agent, the entity responsible for project operation, maintenance, and monitoring;
 - b. Location-Provide city, county, state, waterway name, latitude and longitude. Provide a vicinity map marking the location of the project;
 - c. A description of the proposed activity and its purpose; and
 - d. Other items such as aquatic resources and jurisdictional determination.
6. Determine whether the proposed activity may require a Section 408 permission. If so, coordinate with the Section 408 program.
7. Add appropriate sub actions to ORM2, such as:
 - a. Applicant Information Request
 - b. Section 7 of Endangered Species Act
 - c. Section 106 of the National Historic Preservation Act
 - d. Tribal coordination/consultation
 - e. Section 401 Water Quality Certification
 - f. Internal Corps Coordination
 - g. Coordinate with Applicant or Agent
 - h. Coordinate with External Agency (such as Wild and Scenic Rivers Act consultation, state natural resource agencies)
8. Significant Impact. Provide a summary of any consultations with the Council on Environmental Quality in the event the emergency response would result in significant environmental impact, and justification that the activity proposed is the minimum necessary to control the immediate impacts of the emergency in accordance with CEO guidance on emergencies, including CEO Memorandum, Emergencies and the National Environmental Policy Act Guidance, 18 December 2024.

9. Permit Processing and Documentation:

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

10. Timing. The District will reach a written decision on whether to authorize activities subject to this SOP within 30 business days, unless extenuating circumstances arise. This is contingent upon receiving a complete application or pre-construction notification and fulfilling the requirements of Section 106 of the National Historic Preservation Act, Section 7 of the Endangered Species Act, and other relevant laws and regulations.

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

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

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

Attachment 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:

- a. Name of responsible party (having legal interest to perform the work) and day-time phone number and email. Agent representing the applicant must provide written verification of their designation as agent.
- b. Work Description:
 - i. The description of work must include an explanation of the nature and circumstance of the emergency and why the proposed actions are necessary to control the immediate impacts of the emergency;
 - ii. The project description must include all proposed new work, and any work completed and/or begun without prior written authorization from the Corps;
 - iii. Dredging: Provide area (square feet) of area to be dredged and estimated cubic yards of material to be dredged. Provide location of disposal area and retention method of dredged material;
 - iv. Filling of Waters and Wetlands: Provide area (square feet) of area to be filled, type of waters or wetlands, and estimated cubic yards of material that will be placed in waters or wetlands. Provide type and source of fill material and retention method;
 - v. Legible Site Plan showing proposed work area: Construction drawings, if available, are to be provided;
 - vi. Vicinity Map showing the work area: Street address, city, county, state, include Section, Township, and Range, etc.;
 - vii. GIS shapefiles of project site plan, waters of the United States impact boundaries;
 - viii. Statement from applicant acknowledging the following:
 1. They will perform all mitigation required by Corps;
 2. The work would be performed in a manner that would avoid and minimize impact to waters of the United States to the maximum extent practicable;
 3. Should the permittee discover any previously unknown historic, cultural or 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;
 4. Description of the potential impacts that may occur to species federally listed as threatened or endangered under the Endangered Species Act, or to designated critical habitat;
 5. The work would be completed in an expeditious manner; and
 6. In areas of temporary aquatic resource fill, the impacted area would be restored as near as possible to pre-emergency conditions.
 7. If the work may result in a discharge into waters of the United States, the project proponent will seek water quality certification or a waiver from the appropriate certifying authority.

Attachment 3 - Other Agency Regulations Relevant to Emergency Permitting

50 CFR part 402 - Interagency Cooperation-Endangered Species Act of 1973, as Amended

§ 402.05 Emergencies.

- (a) Where emergency circumstances mandate the need to consult in an expedited manner, consultation may be conducted informally through alternative procedures that the Director determines to be consistent with the requirements of sections (a)-(d) of the Act. This provision applies to situations involving acts of God, disasters, casualties, national defense or security emergencies, etc.
- (b) Formal 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. The Service will evaluate such information and issue a biological opinion including the information and recommendations given during the emergency consultation.

See Chapter 8 of the Services' ESA Section 7 Consultation Handbook (1998) for more information on section 7 consultations for emergency situations.

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 days, the agency official shall comply with §§ 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. Immediate rescue and salvage operations conducted to preserve life or property are exempt from the provisions of section 106 and this part.

Appendix C to 33 CFR Part 325

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 every reasonable effort to receive comments from the SHPO 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.

40 CFR Part 121 - State Certification of Activities Requiring a Federal License or Permit

Emergency situations are not addressed by EPA's current water quality certification regulations, except for a brief discussion in the preamble to EPA's September 27, 2023, final rule:

During pre-proposal outreach on this rulemaking, some stakeholders found the pre-filing meeting request requirement to be essential to an efficient certification process, while others expressed concern about the mandatory 30-day "waiting period" between the pre-filing meeting request and the certification request, particularly in emergency permit situations. Stakeholders suggested that EPA should add flexibility to the process and give certifying authorities the ability to waive the pre-filing meeting request (e.g., for smaller and less complex projects and emergencies). In response to pre-proposal input, the Agency proposed to retain a pre-filing meeting request provision with modifications to provide certifying authorities the flexibility to waive or shorten this requirement. [88 FR 66572]