

Frequently Asked Questions about the Department of the Interior’s Emergency Procedures for Compliance with the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), and Endangered Species Act (ESA) for Projects That Will Address the National Energy Emergency

What projects are eligible for the NEPA, NHPA, and ESA emergency procedures?

Projects that are eligible for the emergency procedures are projects under Federal jurisdiction:

- a. that seek to identify, lease, site, produce, transport, refine, or generate crude oil, natural gas, lease condensates, natural gas liquids, refined petroleum products, uranium, coal, biofuels, geothermal heat, the kinetic movement of flowing water, or critical minerals, as defined at 30 U.S.C. § 1606(a)(3), or that seek to use energy to generate electricity or thermal power or transmit electricity from its site of generation; and
- b. for which the project applicant(s) have submitted plans of operations, applications for permits to drill, or other applications that require Federal approval by a bureau or office within the Department of the Interior (Department).

What is the process for an applicant to request emergency coverage for their project?

While the specific processes differ among the three emergency procedures for [NEPA](#), [NHPA](#), and [ESA](#), the overall process can be generalized in three steps:

1. The project meets the eligibility criteria.
2. The project applicant requests emergency coverage and submits the pertinent completed application (e.g., plan of operation).
3. The Department reviews the request for emergency coverage and the accompanying application and determines whether emergency coverage is appropriate.

How do project applicants interested in requesting emergency coverage for their project submit their request?

Depending on which emergency procedures the project applicant seeks to opt into, the project applicant would (1) draft a request that contains the same information as provided in the sample document labeled “Attachment 1” included at the end of each emergency procedure document (i.e., [NEPA](#), [NHPA](#), [ESA](#)), and (2) email the appropriate contact(s) at the pertinent district, state, or regional office with the request and, if it is a new project, the relevant, *completed* application, or, if it is an ongoing project, details on when and to whom the original application was submitted. For example, a project applicant requesting that its proposed Utah uranium mine on BLM lands receive coverage under the emergency NEPA procedures would (1) draft a request containing the information as provided in the sample document labeled “Attachment 1” in “Alternative Arrangements for Compliance with the National Environmental Policy Act amid the National Energy Emergency,” and (2) email the completed request and proposed plan of operation to the pertinent BLM district office and BLM Utah State Office.

Can project applicants request that their project be covered by all three emergency procedures—that is, the emergency procedures for NEPA, NHPA, and ESA?

Yes.

Do the emergency procedures only apply to new applications?

No. Eligible projects currently in the process of NEPA review, section 7 consultation, and section 106 compliance of the NHPA are eligible for emergency coverage.

Are projects that meet the eligibility criteria automatically approved for emergency procedures?

No. Project applicants must request coverage for their projects, and the Department's Responsible Official must then review their request and the completed application to determine whether emergency coverage is appropriate for the project. If the use of emergency procedures is approved, the Department will conduct the expedited review.

Do these emergency procedures bypass or eliminate existing laws?

No. The Department will continue to comply with applicable laws and regulations for NEPA, NHPA, and ESA, which allow for alternative processes to comply with these laws during emergencies. The Department will continue to comply with all additional applicable Federal laws.

Do the emergency procedures remove the need for other permits, compliance, or consultation?

No. These procedures only expedite the Department's compliance process with NEPA, NHPA, and ESA. All other applicable Federal (e.g., Clean Air Act, Clean Water Act, Surface Mining Control and Reclamation Act), state, and local laws and regulations remain operative.

Do the Department's emergency procedures mean that every eligible energy project in which the Department is involved in permitting will conclude permitting review under Federal law in a maximum of 28 days?

For an eligible project in which the Department of the Interior is the only Federal agency involved and that requires only an environmental impact statement and record of decision under NEPA, compliance with section 106 of the NHPA, and section 7 consultation under the ESA, the Department will complete its permitting responsibilities in a maximum of 28 days, to the extent consistent with applicable Federal statutes and regulations. However, many eligible projects require reviews, permits, consultations, or compliance under other laws and regulations, including from *other* Federal, state, and local departments and agencies, which often have permitting timelines that exceed 28 days. In such cases, the overall permitting timeline for these projects could exceed 28 days. Still, as noted above, the Department of the Interior will complete

its responsibilities under NEPA, NHPA, and ESA for approved projects under its jurisdiction within 28 days.

Are these emergency procedures applicable to eligible projects located on the Outer Continental Shelf?

Yes. Projects that meet the eligibility criteria and are located on the Outer Continental Shelf are eligible for the emergency procedures.

Why are solar and wind projects ineligible for the emergency procedures?

Solar and wind projects are ineligible for the emergency procedures because solar and wind are not listed in the national energy emergency declaration, which—among other purposes—seeks to increase the Nation’s supply of *reliable* energy.

Are projects that intend to produce a critical mineral (as defined by 30 U.S.C. 1606 (a)(3)) as a byproduct eligible for the emergency procedures?

Yes.

Alternative Arrangements for NEPA Review

How do applicants get their project covered under these alternative arrangements for NEPA?

First, the applicant must determine if their project is eligible. If so, the applicant must email the appropriate officials at the Federal action agency (e.g., district and state BLM officials) with (1) a request to have their project covered under Department’s alternative arrangements for compliance with NEPA and (2) if it is a new project, an accompanying complete application (e.g., plan of operation), or if it is an ongoing project, details on when and to whom the original application was submitted. Next, the Responsible Official must assess the submission to determine if the project should be covered by the alternative arrangements.

Under these alternative arrangements, will the Department solicit comments on proposed actions that are unlikely to have significant environmental impacts (i.e., actions that can generally be supported by an environmental assessment (EA) and Finding of No Significant Impact)? Will the Department solicit comments on proposed actions that are likely to have significant environmental impacts (i.e., actions supported by an environmental impact statement (EIS))?

For actions supported by an EA (e.g., approval of mineral exploration with a surface disturbance of less than five acres where significant effects are not anticipated), the Department will not solicit public comments or hold public meetings. For EIS-level activities (e.g., approval of a mine plan of operation where significant effects are anticipated), the will solicit comments and hold a public meeting, which may be virtual or in person, at the discretion of the Responsible Official.

Do these NEPA emergency procedures apply to programmatic NEPA reviews?

No. The NEPA emergency procedures described herein apply only to project-specific NEPA reviews.

Alternative Procedures for Section 106 Compliance under the NHPA

How do applicants get a project covered under these alternative procedures for section 106 compliance under the NHPA?

First, the applicant must determine if their project is eligible. If so, the applicant must email the appropriate officials at the Federal action agency (e.g., district and state BLM officials) with (1) a request to use the Department's alternative procedures for compliance with section 106 of the NHPA and (2) if it is a new project, an accompanying complete application (e.g., plan of operation), and if it is an ongoing project, details on when and to whom the original application was submitted. Next, the Responsible Official must assess the submission to determine if the proposed undertaking should be covered by the alternative procedures.

How much time do external stakeholders, like State Historic Preservation Officers, have to comment on the proposed action?

The Advisory Council on Historic Preservation, applicable State Historic Preservation Officer(s)/Tribal Historic Preservation Officer(s), and any Indian tribe or Native Hawaiian organization that may attach religious and cultural significance to historic properties likely to be affected by the undertaking have seven days to comment after the Department issues a notice that it will use alternative procedures for section 106 compliance.

Will eligible projects in all states be covered by these alternative procedures?

Yes. However, to the extent there are specific Programmatic Agreements that include applicable procedures covering emergencies (e.g., Utah State Protocol Agreement between the Bureau of Land Management and the Utah State Historic Preservation Office), the applicable bureau would use those procedures for any eligible project as appropriate.

Alternative Procedures for Section 7 Consultation under the ESA

How do applicants get a project covered under these alternative procedures for section 7 consultation under the ESA?

First, the applicant must determine if their project is eligible. If so, the applicant must email the appropriate officials at the Federal action agency (e.g., district and state BLM officials) with (1) a request to use the Department's alternative procedures for informal, expedited consultation under section 7 of the ESA and (2) if it is a new project, an accompanying complete application (e.g., plan of operation), or if it is an ongoing project, details on when and to whom the original application was submitted. Next, the Responsible Official must assess the submission to determine if the project should be covered by the alternative procedures.

How do these alternative procedures affect projects on the Outer Continental Shelf that require consultation with the National Marine Fisheries Service (NMFS)?

The Federal action agency will proceed with emergency consultation with NMFS pursuant to existing regulations for section 7 of the ESA (50 CFR 402.05(a)) and section 305(b)(2) of the Magnuson-Stevens Act (50 CFR 600.920(a)(1)).

How will these alternative procedures affect projects requiring joint consultations between the Fish and Wildlife Service (FWS) and NMFS?

The Federal action agency will proceed with emergency consultation with both the FWS and NMFS pursuant to existing regulations for section 7 of the ESA (50 CFR 402.05(a)).