



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
2000 FORT POINT RD
GALVESTON, TEXAS 77550

EO 14156: Energy Emergency Permitting Procedures - State of Texas

1. Submitting a request for emergency authorization under EO 14156

a. Applicants must provide the following information to the respective district office via the district's office's email or via the Regulatory Request System(RRS):

- 1) 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.
- 2) Work Description:
 - i. The project description must include all proposed new work, and any work completed and/or begun without prior written authorization from the Corps;
 - ii. Dredging: Provide area (acreage) and approximate cross-section of the area to be dredged and estimated cubic yards of material to be dredged. Provide location of disposal area and retention method of dredged material;
 - iii. Filling of Waters and Wetlands: Provide area (acreage) and approximate cross-section of the 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;
 - iv. Legible Site Plan showing proposed work area: Construction drawings, if available, are to be provided;
 - v. Vicinity Map showing the work area: Street address, city, county, state, include Section, Township, and Range, etc.;
 - vi. GIS shapefiles of project site plan, waters of the United States impact boundaries;
 - vii. Statement from applicant acknowledging the following:
 - 1) They will perform all mitigation required by USACE;
 - 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 archeological remains and artifacts while accomplishing the activity authorized by USACE, 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.
- 8) 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.

b. Upon receipt of an emergency permit request, USACE will identify the appropriate permit type to cover the proposed work, assign project number and Regulatory Project Manager (RPM), and document the proposed work as an EO 14156 activity in the ORM database

2. Prioritize use of General Permits currently in effect

- a. To the maximum extent possible, qualifying activities will be identified, prioritized and processed pursuant to Regional General Permit (RGP), Programmatic General Permit (PGP) and Nationwide Permit (NWP) programs currently in effect in the State of Texas.
- b. Regulatory Leadership will ensure that their Regulatory Project Managers (RPMs) maximize deployment of currently available in-house resources and screener tools (e.g., Information Planning and Consultation [IPaC] tool) to ensure compliance with the Endangered Species Act, National Historic Preservation Act/Tribal trust responsibilities, Magnuson-Stevens Act, and other applicable statutory requirements.
- c. Those individual applications qualifying for GP review under EO 14156, but for which further coordination/consultation are required due to statutory requirements or other public interest factors, the applicable processes enumerated in "Standard Individual Permit Evaluation Procedures" will be followed.

3. Accelerated Procedures for Activities Subject to Individual Permits

- a. Letter of Permission (LOP) – Proposed work subject to USACE authority under Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act, but not within the parameters of a current GP, may be appropriate for review under LOP procedures. Since the LOP process is generally an abbreviated process, qualifying activities will be identified and prioritized for accelerated review. Interagency Coordination Notice will be 5 days.

b. Standard Individual Permit (SP) – Proposed work not subject to a current GP or LOP will be accelerated through the standard procedures at 33 CFR 325.2(a) in a manner tailored to the energy emergency situation, but it will not delay a timely decision.

- i. Public Notices (PNs) SPs will be posted on the district website as soon as practicable following receipt of all the information summarized in 1.a.
- ii. PNs will have a 10-day comment period starting the day the PN is issued.
- iii. Comments received from state and federal resource agencies, interested federally recognized tribes, and the public will be incorporated into the administrative record for the permit decision.

4. Accelerated Coordination with State and Federal Resource Agencies, Interested Federally Recognized Tribes

a. **Federal Projects** - Requests also subject to 33 USC 408 (Section 408), will be flagged and forwarded to the District Section 408 coordinator, with the District Operations and Engineering Division Chiefs cc'd, upon receipt of the permit application to initiate the Section 408 review process. Projects located on tracts where USACE potentially holds Real Estate Interest will be flagged and forwarded to the District Real Estate Chief upon receipt of the permit application to initiate review.

b. **Endangered Species Act** - the district will utilize IPaC and on-line mapping tools of the applicable Services to determine if a proposed activity will affect a listed threatened or endangered species or designated critical habitat. If it is determined that a proposed activity will not affect a listed species or critical habitat, or may affect but is not likely to adversely affect a listed species with the inclusion of reasonable and prudent measures, the determination will be documented in the administrative record and the authorization conditioned accordingly. If it is determined that ESA compliance requires formal consultation, it will be initiated by the district as soon as practicable after the emergency is under control in accordance with (IAW) 50 CFR 402.05.

c. **Magnuson-Stevens Fishery Management and Conservation Act Essential Fish Habitat (EFH)**– The district will coordinate EFH using standard practices. As necessary, districts will coordinate in the development of special permit conditions with NMFS IAW these expedited procedures and document in the administrative record and the authorization conditioned accordingly. If it is determined that additional consultation is required, it will be initiated by the district as soon as practicable after the emergency is under control IAW 50 CFR 600.920.

d. **National Historic Preservation Act** - If it is determined that a proposed emergency undertaking has potential to cause effect to a historic property, the district will follow emergency procedures in 33 CFR 325 Appendix C(14), 33 CFR 325.2(e)(4) and 36 CFR 800.12, to include notification to the Advisory Council on Historic Preservation (ACHP), State Historic Preservation Office (SHPO)/Tribal Historic Preservation Office, and applicable Tribes with an opportunity to comment within seven days. The district will maintain USACE's obligation for

meaningful consultation in fulfilling the Nation's trust responsibility to Federally recognized Tribes IAW 54 U.S.C. § 302706 (b) and the USACE 2023 Tribal Consultation Policy. The district's Tribal Liaison and archaeologists will assist in the conduct of Tribal consultation for proposed emergency activities potentially impacting Tribal interests.

e. **Water Quality Certification (WQC)** – For the purpose of this procedure, the district will seek agreement with the State of Texas on a 25-day Reasonable Period of Time (RPOT) for WQC issuance or a waiver. If written agreement on a 25-day RPOT between the district and the state is not achieved, the RPOT will default to 90 days. Upon receipt of the WQC for an emergency activity from state, the district will furnish a copy of the WQC to the Environmental Protection Agency (EPA) via email for a neighboring jurisdictions determination. EPA will respond to the district via email within 48 hours. If the district does not receive issuance or a waiver within the RPOT the district will issue a provisional notification to the applicant.

f. **Coastal Zone Management Act (CZMA) Consistency Determinations.** The district will coordinate CZMA using standard practices. If the district determines it is ready to finalize its decision prior to the CZMA process being completed, it may issue a provisional notification to the applicant.

5. Permit under Review by non-USACE Lead Federal Agency

To streamline the energy permit application review process and avoid duplication of effort, Districts will rely on the environmental compliance determinations by the Lead Federal Agency (e.g. Federal Energy Regulatory Commission) that prepared, or is preparing, an Environmental Assessment or Environmental Impact Statement for a proposed energy activity.