

ALTERNATIVE PROCEDURES FOR INFORMAL SECTION 7 CONSULTATION

Alternative Procedures for Informal, Expedited Consultation under Section 7 of the Endangered Species Act for Energy Projects amid the National Energy Emergency

On January 20, 2025, President Donald J. Trump declared a national energy emergency and directed the heads of executive departments and agencies, including the Secretary of the Interior, to “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” (Sec. 2(a), Executive Order (EO)14156, titled “Declaring a National Energy Emergency”). The definition of energy resources includes “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)” (section 8(a), EO 14156).

During a national emergency, the Department of the Interior can adopt alternative procedures for informal, expedited consultation to comply with section 7(a)-(d) of the Endangered Species Act (ESA) (50 CFR 402.05). Paul Souza, who is the Regional Director exercising the delegated authority of the U.S. Fish and Wildlife Service (FWS) Director, has determined that the following alternative procedures are consistent with the requirements of section 7(a)-(d) of the ESA (50 CFR 402.05(a)):

1. The only projects eligible for these particular alternative procedures for the informal, expedited section 7 consultation are those projects:
 1. that seek to identify, lease, develop, produce, transport, refine, or generate energy resources as defined in section 8(a) of EO 14156; and
 2. for which the project applicant(s) have submitted plans of operations, applications for permits to drill, and other applications.
2. The project applicants must affirm in writing that they want their project covered by the alternative procedures for informal, expedited section 7 consultation. (See Attachment 1)
3. The Secretary of the Interior, the Deputy Secretary of the Interior, the appropriate Assistant Secretary, their acting equivalents, or those officials exercising the delegated authority of these positions must approve coverage of the project under the alternative procedures for informal, expedited section 7 consultation.
4. The alternative procedures are the following:
 - a. The Federal action agency shall inform FWS about the proposed action and decision to use the alternative consultation procedures due to the national energy emergency.
 - b. The Federal action agency coordinates with FWS in accordance with 50 CFR 402.05(a) and proceeds with the proposed action if the necessary requirements of other departments and agencies are met.

5. As soon as practicable under the circumstances, following termination or expiration of the national energy emergency, the Federal action agency shall follow 50 CFR 402.05(b) and provide the information necessary to initiate consultation. FWS shall evaluate the information and deliver either a biological opinion or letter of concurrence to the Federal action agency, as appropriate, and in accordance with the timeframes set forth in the ESA section 7 implementing regulations at 50 CFR part 402.

During the national energy emergency, these alternative procedures for informal, expedited section 7 consultation shall remain applicable for these particular projects unless superseded by subsequent alternative procedures for informal, expedited section 7 consultation. If 50 CFR 402.05 is rescinded or revised during the national energy emergency, these alternative procedures for informal, expedited section 7 consultation shall remain applicable unless explicitly superseded by interim or final guidance or regulations.



Adam Sues,

Acting Assistant Secretary – Land and Minerals Management

ATTACHMENT 1

Request for Energy Project Coverage under the Department of the Interior’s
Alternative Procedures for Informal, Expedited Consultation under Section 7 of the Endangered
Species Act for Energy Projects amid the National Energy Emergency

ATTN: [APPROPRIATE DISTRICT/STATE/REGIONAL OFFICE CONTACTS OF THE
FEDERAL ACTION AGENCY]

CC: Paul Souza, Exercising the Delegated Authority of the Director of the Fish and Wildlife
Service

Company name: [INSERT COMPANY NAME]
Project name: [INSERT COMPANY NAME]
Project city, state: [INSERT INFORMATION]
Lead agency: [INSERT LEAD AGENCY NAME]

Our company, [INSERT COMPANY NAME], requests that [INSERT PROJECT NAME] is
covered by the Department of the Interior’s alternative procedures for informal, expedited
section 7 consultation under the Endangered Species Act amid the national energy emergency.

The latest version of the [proposed plan of operation or other application] for [INSERT
PROJECT NAME] is attached. [ATTACH PLAN OF OPERATION OR OTHER
APPLICATION]

Signature

Date

Name

Title