
40 C.F.R. § 49.104

Requirements regarding threatened or endangered species and historic properties.

(a) *What are sources required to do to address threatened or endangered species and historic properties?* An owner/operator subject to the requirements contained in §§ 49.101 through 49.105 to satisfy its obligation under § 49.151(c)(1)(iii)(B) to obtain a minor NSR permit shall meet either paragraph (a)(1) or (2) of this section, as appropriate.

(1) *Prior completion of assessment by another federal agency.* The owner/operator shall submit to the EPA Regional Office (and to the relevant tribe for the area where the source is located/locating) valid documentation demonstrating that prior Endangered Species Act (ESA) and/or National Historic Preservation Act (NHPA) compliance has been completed by another federal agency in connection with the specific oil and natural gas activity operated under this FIP (we would consider a document no longer valid if the issuing agency has reopened consultation for the prior approval). The appropriate documents shall clearly show that the other federal agency had met its obligations under both the ESA and NHPA. A simple reference to a Record of Decision or other final decision document will not be acceptable. For listed species, acceptable documentation can include a copy of a letter or biological opinion from the U.S. Fish and Wildlife Service addressing the effects of the project on listed species and critical habitat and demonstrating compliance by the federal action agency with ESA requirements. Where the federal action agency prepares a biological assessment of the action as part of its ESA compliance, that document shall also be provided to the EPA Regional Office. For historic properties, acceptable documentation can include: a letter from the appropriate historic preservation office, or a memorandum of agreement with that office, addressing the effects of the project on historic properties and demonstrating compliance by the federal action agency with NHPA requirements. All documentation shall be attached to the Part 1 Registration Form submitted in accordance with § 49.160(c)(1) (iv).

This document is only available to subscribers. Please [log in](#) or [purchase access](#).

[Purchase Login](#)