



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

January 21, 2026

**MEMORANDUM FOR HEADS OF FEDERAL DEPARTMENTS AND AGENCIES**

**FROM:** Katherine R. Scarlett  
Chairman

**SUBJECT:** Guidance on Emergencies and the National Environmental Policy Act

**I. Overview and Purpose**

This guidance<sup>1</sup> replaces previous guidance from the Council on Environmental Quality (CEQ) on the environmental review of proposed emergency response actions under the National Environmental Policy Act, 42 U.S.C. §§ 4321–4347 (NEPA).<sup>2</sup> Federal departments and agencies (agencies) should distribute this guidance as part of their general guidance on emergency actions to agency offices that are or may become involved in developing and taking actions in response to emergencies.

CEQ has over 40 years of experience assisting agencies in implementing NEPA during emergency situations, and more specifically at helping agencies develop alternative arrangements from the standard processes established in agency NEPA implementing procedures to comply with NEPA, and particularly with respect to Section 102(2)(C) of NEPA (42 U.S.C. § 4332(2)(C)).<sup>3</sup> CEQ also has substantial experience, pursuant to Section 102(2)(B) of NEPA (42 U.S.C. § 4332(2)(B)), in consulting with agencies on development of agency NEPA procedures, including development of emergency procedures. CEQ has approved and agencies

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<sup>1</sup> The contents of this guidance do not have the force and effect of law and are not meant to create legal rights or obligations with respect to any party. This guidance does not establish new policy requirements. This memorandum is intended only to provide clarity to the agencies regarding existing requirements under the law or agency policies.

<sup>2</sup> Specifically, this guidance rescinds and replaces guidance issued by CEQ on December 18, 2024, *Memorandum for Heads of Departments and Agencies: Emergencies and NEPA Guidance* (89 Fed. Reg. 106448 (Dec. 30, 2024)). Among other changes, CEQ is removing the appendix provided in that prior guidance on preparing concise EAs, which was not limited to emergency actions. By statute, in a provision added in the 2023 amendments, *see* NEPA Sec. 106(b)(2), 42 U.S.C. § 4336(b)(2), an EA is a concise public document. Agencies may look to the prior guidance when developing such concise documents. This guidance also rescinds and replaces, to the extent not already rescinded by prior guidance, the following documents: *Memorandum for Heads of Federal Departments and Agencies: Emergencies and NEPA Guidance* (Sept. 14, 2020) (85 Fed. Reg. 60137 (Sept. 24, 2020)); *Emergencies and the National Environmental Policy Act* (2016); *Memorandum for Heads of Federal Departments and Agencies: Emergencies and the National Environmental Policy Act* (May 12, 2010); and *Memorandum for Federal NEPA Contacts: Emergency Actions and NEPA* (Sept. 8, 2005).

<sup>3</sup> CEQ first provided guidance on alternative arrangements in the 1971 guidelines on *Statements on Proposed Federal Actions Affecting the Environment*, 36 FR 7724, 7726 (April 23, 1971). CEQ incorporated this guidance with a few updates in 40 CFR § 1506.11 of CEQ's 1978 NEPA implementing regulations, 43 FR 55977 (Nov. 29, 1978). CEQ has rescinded all iterations of its NEPA implementing regulations effective April 11, 2025, *see Removal of National Environmental Policy Act Implementing Regulations*, 90 Fed. Reg. 10610 (Feb. 25, 2025). Under CEQ's now-rescinded NEPA implementing regulations, alternative arrangements referred to alternatives to the processes set forth in CEQ's regulations for complying with NEPA, including the processes described in now-rescinded 40 C.F.R. Part 1502.

have successfully applied numerous alternative arrangements<sup>4</sup> to comply with NEPA Section 102(2)(C) when authorizing, funding, or carrying out a wide range of proposed actions in emergency circumstances, including natural disasters, catastrophic wildfires, threats to species and their habitat, economic crises, infectious disease outbreaks, potential dam failures, insect infestations, and emergencies declared by the President.<sup>5</sup> Alternative arrangements do not waive the requirement to comply with the NEPA statute. Rather, they establish an alternative means for an agency to meet its NEPA obligations.

As an agency responds to emergency circumstances, it must consider whether there is sufficient time to follow the requirements for environmental review established in the agency's NEPA procedures, or whether the situation warrants alternative arrangements for NEPA compliance. An agency may use this guidance to assist it in determining an appropriate approach depending on the level of NEPA review.

Section II outlines the general process for evaluating emergency actions under NEPA. Section III provides additional guidance to agencies on consultation with CEQ to develop alternative arrangements for emergency actions that have reasonably foreseeable significant environmental effects. Section IV provides guidance to agencies on developing procedures for emergency actions that do not have reasonably foreseeable significant environmental effects.

## **II. Process for Complying with NEPA for Emergency Actions**

### **A. Do Not Delay Taking Actions Necessary To Address Immediate Threats**

In certain situations, an agency may determine that an emergency exists that warrants immediate Federal action to address imminent threats to life, property, or important natural, cultural, or historic resources. In such situations, the agency also likely will find that it lacks sufficient time to prepare a NEPA analysis and any required documentation in accordance with the agency's NEPA implementing procedures before taking action to address the emergency. NEPA compliance under the agency's NEPA implementing procedures must not prevent agencies from taking actions in such circumstances.

When taking such actions to respond to the emergency, the agency decision maker should, in all circumstances where the exigencies of the emergency permit, take into account the probable environmental consequences of the emergency action and consider taking steps to mitigate reasonably foreseeable adverse environmental effects to the extent practical and consistent with agency authority. The agency may incorporate this information in any subsequent NEPA analysis.

### **B. Determine If NEPA Applies**

An agency should determine first if the action is a major Federal action subject to NEPA.<sup>6</sup> If the

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<sup>4</sup> A synopsis of previous alternative arrangements is available at [www.NEPA.gov](http://www.NEPA.gov).

<sup>5</sup> Examples of emergency authorities include the National Emergencies Act, 50 U.S.C. 1601 *et seq.*; the Robert T. Stafford Disaster Relief and Emergency Act, 42 U.S.C. § 5121 *et seq.*; the Public Health Service Act, 42 U.S.C. § 247d; and the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 360bbb-3.

<sup>6</sup> See 42 U.S.C. § 4336e(10).

action is not subject to NEPA, the agency should: (i) document the inapplicability of NEPA; and (ii) proceed with the action, as allowed by and consistent with other applicable law.

### **C. Determine the Appropriate Level of NEPA Review for the Emergency Action**

When a Federal agency proposes an emergency action and has determined that the action is subject to NEPA, the lead agency must determine the appropriate level of NEPA review: a categorical exclusion (CE), environmental assessment (EA), or environmental impact statement (EIS), and then analyze the action under that level of review. Note that NEPA as amended in 2023 provides certain screening considerations to determine whether an action to which NEPA applies requires preparation of either an EA or an EIS, including but not limited to whether the action is excluded from further NEPA requirements pursuant to a categorical exclusion, and agencies should consider these factors before proceeding to determine whether the action requires the agency to develop an EA or an EIS.<sup>7</sup>

#### *1. Emergency Actions Covered by a Categorical Exclusion*

If the agency has a CE that covers the proposed emergency action, then the agency should apply the CE.<sup>8</sup> Where extraordinary circumstances are present, the agency should consider whether the application of the CE is still appropriate notwithstanding the presence of extraordinary circumstances, because the proposed action does not in fact have the potential to result in significant impacts, or the agency modifies the proposed action to avoid those effects. The mere presence of an extraordinary circumstance does not prevent the application of the categorical exclusion. Agency personnel can assist in identifying agency-specific actions that are categorically excluded. Additionally, the agency should review CEs established in other agencies' NEPA procedures to determine whether there is a CE that would cover the agency's proposed emergency action. If so, the agency may adopt and apply the CE consistent with Section 109 of NEPA.<sup>9</sup> In all cases, the agency should not allow its response to the emergency to be delayed by observing the agency's procedures for the use of a CE. Where the agency, in the course of taking a particular action in response to an emergency, pursues alternative arrangements to the CE process and requirements described in its agency procedures, the agency is not required to consult with CEQ, but may choose to do so. For more information on alternative arrangements to agency NEPA procedures for actions covered by a CE, please see section IV.

#### *2. Emergency Actions for Which the Agency Is Preparing an Environmental Assessment*

When a Federal agency proposes an emergency action that is not covered by a CE, and the agency does not expect the proposed emergency action to have reasonably foreseeable significant environmental effects, or the significance of such effects are unknown, the agency should prepare an EA and, if appropriate, a finding of no significant impact (FONSI). Consistent with Section 106(b)(2) of NEPA (42 U.S.C. § 4336(b)(2)), the EA must be a concise public document. Where emergency circumstances prevent a Federal agency from meeting

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<sup>7</sup> See 42 U.S.C. § 4336(a).

<sup>8</sup> See 42 U.S.C. § 4336(a)(2).

<sup>9</sup> 42 U.S.C. § 4336c.

requirements otherwise applicable under the agency's procedures for preparing an EA or FONSI, the agency may develop alternative arrangements for NEPA compliance to allow the agency to proceed to address the emergency. The agency is not required to consult with CEQ, but may choose to do so when establishing such alternative arrangements for a particular proposed action undertaken in response to an emergency where the action does not have reasonably foreseeable significant environmental effects and the agency would otherwise have prepared an EA or FONSI. Please see section IV for additional information.

### 3. *Emergency Actions with Reasonably Foreseeable Significant Effects*

Where emergency circumstances make it necessary for a Federal agency to take an action with reasonably foreseeable significant environmental effects without the time necessary to meet the requirements otherwise applicable under the agency's procedures for preparing an EIS, the Federal agency taking the action should consult with CEQ when establishing alternative arrangements for that particular action. Section III below describes the process agencies should use when establishing alternative arrangements to their NEPA implementing procedures for particular actions with reasonably foreseeable significant effects.

## **III. Alternative Arrangements for Actions with Reasonably Foreseeable Significant Effects**

Agencies should continue the practice of consulting with CEQ in emergency circumstances where the agency plans to take actions with reasonably foreseeable significant environmental effects. Consistent with past practice, CEQ recommends that agencies include in their NEPA procedures language regarding alternative arrangements that memorializes this consultation process as follows:

*Where emergency circumstances make it necessary to take an action with reasonably foreseeable significant effects without observing the provisions of these procedures, [agency] will consult with CEQ about alternative arrangements for compliance with NEPA § 102(2)(C)), 42 U.S.C. § 4332(2)(C).*

Agencies should develop these alternative arrangements based on emergency-specific facts and circumstances during consultation with CEQ. Examples of previous alternative arrangements include shortening public comment periods on an EIS when a specific public comment period was required by agency procedures; completing an EA to implement certain parts of a necessary action while the EIS is being completed; and issuing an interim emergency measures decision document, to the extent consistent with agency authority, discussing alternatives and likely reasonably foreseeable significant environmental effects as they are known at the time.<sup>10</sup>

When designing alternative arrangements for EISs and consulting with CEQ, agencies and CEQ should consider the following factors:

- Nature and scope of the emergency;

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<sup>10</sup> A synopsis of previous alternative arrangements is available at [www.NEPA.gov](http://www.NEPA.gov).

- Actions necessary to control the immediate impacts of the emergency;
- Potential adverse effects of the proposed action;
- Components of the agency's NEPA procedures that the agency can follow and provide value to decision making;
- Estimated duration of the emergency; and
- Potential mitigation measures.

Alternative arrangements for NEPA compliance do not complete or alter other legal requirements under other statutes, including other environmental legal requirements (except as provided by other applicable statutes or regulations). Federal agencies should engage other resource and regulatory agencies about other environmental requirements during development and implementation of alternative arrangements for NEPA compliance, as such engagement can potentially facilitate meeting other environmental compliance requirements.

To discuss alternative arrangements with CEQ for actions with reasonably foreseeable significant effects, agencies should submit inquiries via email at [nepa@ceq.eop.gov](mailto:nepa@ceq.eop.gov). Agencies may also contact CEQ at (202) 395–5750. Once the agency and CEQ develop alternative arrangements, CEQ will provide documentation detailing the alternative arrangements and the considerations on which they are based. Agencies should notify the public of these alternative arrangements. CEQ provides a list of previously implemented alternative arrangements on its website.

#### **IV. Alternative Arrangements for Actions Without Reasonably Foreseeable Significant Effects**

Agencies may include in their agency NEPA procedures provisions for alternative arrangements for applying CEs to and preparing EAs and FONSIIs for emergency actions without reasonably foreseeable significant effects.<sup>11</sup> The procedures should clarify who in the agency has authority to grant or approve emergency procedures; what coordination or consultation is required within the agency; and include a requirement to document any authorized emergency procedures. They should provide flexibility to adapt to the emergency-specific facts and circumstances and to address the actions necessary to control the immediate impacts of an emergency as allowed by and consistent with other applicable law. To ensure consistency across the Federal Government, agencies should consult with CEQ when developing such procedures pursuant to Section 102(2)(B), 42 U.S.C. § 4332(2)(B). The agency is not required to consult with CEQ when applying such procedures to individual agency actions.

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<sup>11</sup> See, e.g., Department of the Interior, 43 C.F.R. § 46.150.