

ALTERNATIVE ARRANGEMENTS PURSUANT TO 40 CFR SECTION 1506.11-EMERGENCIES

NATURE OF PROPOSED ACTION	NATURE OF EMERGENCY	REQUESTING AGENCY	DATE CEQ CONTACTED	RESOLUTION OF REQUEST
1. Release of HUD Section 108 loan guarantee funds to initiate land acquisition, relocation, site clearing and demolition activities.	Michigan governor declared City of Detroit to be in a state of emergency due to economic crisis. GM threatened to build a new plant outside the city unless a cleared site was delivered by May 1981.	City of Detroit, Michigan, under Section 104(h) of Community Development and Housing Act of 1974.	09/19/80 Request dated 09/22/80 CEQ response dated 09/24/80	CEQ concurred in alternative arrangements proffered by HUD and the City which included substantial mitigation and notification efforts, and no demolition prior to discussion with Advisory Council on Historic Preservation. Upheld in <u>Crosby v. Young</u> , 512 F. Supp. 1363 (E.D. Mich. 1981) which describes the facts as well as CEQ authorities.
2. Construct emergency regulating pond to stop sewage flow from Tijuana, Mexico into U.S.	Uncontrolled sewage flowing into U.S. would pose health risk and foul beaches.	International Boundary and Water Commission	03/08/83	CEQ approved upon receipt of an environmental memorandum; preparation of EA followed.
3. Established boundary to effect an immediate separation between adjacent stone crab and shrimp fisheries.	Conflict escalated into physical violence between the two fisheries.	DOC / NOAA	03/09/83	CEQ concurred in establishment of boundary, noting that fishery season would terminate shortly (May 15) and that the boundary issue would be fully addressed in the two 1983-84 fishery management plans.
4. Spray for mosquitoes with pesticides.	Outbreak of encephalitis in Yuma Proving Grounds, Arizona.	DOD /US Army	08/08/83	CEQ approved arrangement to meet clear and present threat to human and animal health, noting that an EA or EIS might be necessary if long-term spraying were required.

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5. Published an emergency temporary standard on asbestos.	Remove harmful asbestos materials.	DOL / OSHA	12/16/83	CEQ agreed to publication of temporary asbestos standard on condition that OSHA assessment would be done on environmental effects prior to permanent standard hearings.
6. Aerial spraying of malathion pesticides in Idaho.	Infestation of migratory grasshoppers on Idaho cropland.	USDA / APHIS	08/03/84	APHIS notified CEQ of the action, advising that 1979 Programmatic EIS found no adverse environmental effects.
7. Stabilize the structural elements of a historic building prior to completion of the EIS process on the renovation.	Prevent the collapse of structure and exposure to hazardous asbestos.	Albany, NY Urban Renewal Agency under the Urban Development Action Grant program.	10/16/84	CEQ agreed with the action considering that the asbestos removal qualified as an emergency circumstance and that stabilization would not cause environmental harm.
8. Clean up herbicide-contaminated material prior to the preparation of environmental documentation.	Herbicide-contaminated materials discovered at Fort A.P. Hill, Virginia (site of the 1981 Boy Scout Jamboree).	DOD /US Army	11/21/84	CEQ agreed that environmental documents would be prepared concurrently with testing and clean-up at the site.

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9. Issue a right-of way grant and allow the State of Utah to begin construction of the Great Salt Lake West Desert pumping project prior to the projected filing of the FEIS with EPA in July 1986.	Rising lake levels threatened extensive damage to surrounding industries, wildlife habitats, recreation areas, transportation systems, and personal and private property.	DOI / BLM	02/27/85	CEQ approved the project in May 1986 (after Utah legislature authorized construction funds), provided that BLM complete the NEPA process, discussing the environmental impacts due to changes from the original EIS and that the state mitigate impacts as agreed to through the EIS process.
10. Issue a permit, based on a change to FWS policy, to capture the six remaining California condors and remove them from the wild.	Precipitous decline of species suggested that extinction was likely without enhancement of propagation.	DOI / FWS	12/20/85	CEQ agreed to issuance of permit, noting 9/85 EA and 10/85 FONSI and that efforts were directed toward reentry of species in the wild. Upheld in <u>National Audubon Society v. Hester</u> , 801 F.2d 405 (D.C. Cir. 1986).
11. Destroy 1.3 million steelhead trout at Coleman National Fish Hatchery, California.	Spread of incurable whirling disease, classified as emergency by FWS.	DOI / FWS	01/31/86	CEQ approved on basis of January 1986 EA.
12. Aerial spraying of pesticide malathion prior to signing of ROD.	Grasshopper infestation on rangeland in Arizona.	USDA / APHIS	04/25/86	CEQ approved action on condition that it was limited to acreage originally specified in request.

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13. Destroy 5 million juvenile upright bright fall Chinook salmon at Little White Salmon National Fish Hatchery, WA.	Outbreak of untreatable viral Infectious Hematopoietic Necrosis (IHN).	DOI / FWS	05/19/87	CEQ approved destruction, noting that the EA evaluated impacts and alternatives to proposed action.
14. Remove unexploded ordnance near Martha's Vineyard in MA.	Ordnance exposed by natural wave process posed hazard to beach users unaware of it.	DOD /US Army	08/29/88	Consultation was concurrent with the removal action and prior to completion of an EA.
15. License a hydroelectric facility at Milner Dam in Idaho.	License issuance to allow money needed for immediate repairs to prevent dam failure due to seepage or earthquake.	FERC	10/25/88	CEQ approved based on FERC's commitment to impose license conditions to mitigate any adverse impacts.
16. Destroy 3.42 million Pacific salmon and steelhead eggs and fish at Makah National Fish Hatchery, Washington.	Spread of untreatable virus: Viral Hemorrhagic Septicemia (VHS).	DOI / FWS	03/04/89	CEQ approved after review of February 1989 EA.
17. Lower the water level behind the Clear Creek Dam and Reservoir in Yakima, WA, to 2970 feet.	Potential dam failure which threatened both loss of life and property.	DOI / BLM	01/03/90	CEQ approved with understanding that repairs or reconstruction thereafter would be conducted in compliance with NEPA.

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18. Aerial spraying of pesticide malathion over residential areas in Los Angeles, CA.	Threatened outbreak of Mediterranean fruit fly infestation resulting in economic losses of over \$800 million to CA agricultural industry.	USDA / APHIS	01/19/90	CEQ approved with 5 conditions: strict adherence to EPA quarantine exemption on malathion; vigorously pursue the NEPA process; employ monitoring program; provide monthly status reports to CEQ; and publish notices in affected counties.
19. Issue right-of-way for construction of Upper Flamingo Wash Detention Basin in Las Vegas, NV.	Frequent flooding that previously resulted in loss of life and millions dollars in damages.	DOI / BLM	12/04/90	CEQ concurred with the understanding BLM would complete the NEPA process for the remainder of the project.

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<p>20. Allow night flights into and an increase in the overall number of flights from Westover Air Force Base in Massachusetts.</p>	<p>In response to hostilities in Kuwait, troops and military supplies had to be transported for use in Persian Gulf military operations (Operation Desert Shield) and the Air Force needed to change C-5A flight operations from those predicted in a recently prepared EIS for the stationing of a unit of Air Force Reserve C-5A aircraft at Westover.</p>	<p>DOD /Air Force</p>	<p>11/21/90 CEQ granted alternative arrangements March 19, 1991</p>	<p>The alternative arrangements required DOD/Air Force to immediately to implement five conditions: develop and complete, within 30 days, an EA documenting the environmental impacts of operations which exceeded the nature and number of flights occurring prior to Operation Desert Shield; provide for distribution, notice of availability, and a 30-day public comment period; provide Air Force responses to substantive comments; and continue efforts to remain alert to opportunities to lessen nighttime use over Westover. The Air Force committed to monitoring and publishing the results, and to preparing a supplemental EIS for the beddown of C-5A aircraft at Westover. Upheld in <u>Valley Citizens for a Safe Environment v. Vest et. al.</u>, (D. Mass. May 6, 1991) (WL330963 D. Mass., 1991).</p>

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21. Test aerial deactivation of land mine from the air at Tonopah Test Range in Nevada.	Preparation for war in Persian Gulf (Operation Desert Shield).	DOD /Air Force	01/16/91	CEQ agreed to the testing considering the relatively short time needed for testing aerial deactivation of land mines (approximately 2 days), the military action in the Persian Gulf (Operation Desert Storm) and the service's expeditious consultation with DOI/ U.S. Fish and Wildlife Service and other government agencies with relevant expertise. Testing involved the use of fuel air explosives to clear buried land mines over a large area at the Department of Energy's Tonopah Test Range.
22. Fund the Idaho Fish & Game Dept. and the Shoshone-Bancock tribe proposal to save the snake river Sockeye salmon.	Decline in salmon population. Migration of this sockeye salmon run had fallen to 4 adults in 1988, 1 adult in 1989 and no adults in 1990.	Bonneville Power Administration	05/01/91	CEQ agreed to preparation of a special EA and conferencing with NMFS under ESA. CEQ participated in a conference call with representatives of 12 organizations to discuss issues of concern.
23. Drawdown of Par Pond, Savannah River Site.	Inspection of dam revealed depression in earth dam. Emergency drawdown to prevent possible life threatening failure of the dam and spread of sediment and contaminant.	DOE	07/09/91	CEQ requested a special environmental analysis of the drawdown, repair and refilling of the Par Pond including discussion of mitigation measures. DOE entertained additional mitigation measures after public comment.

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<p>24. Allow the City of Portland, Oregon to pump down Bull Run Lake potentially reducing its volume down to 17 ft below normal minimal level.</p>	<p>City of Portland, Oregon, requested pumping additional water from Bull Run to meet emergency water needs of the City.</p>	<p>USDA / Forest Service</p>	<p>09/03/92</p>	<p>CEQ agreed to allow the City to pump water from Bull Run Lake on condition that the City conduct an EA on the emergency action (distinguished from long-term use NEPA analysis for 20-year permit) as soon as possible. The alternative arrangements required the EA to: address the alternatives considered and their estimated impacts; explain the emergency conditions that support use of 40 CFR 1506.11 and the relationship of the EA to the ongoing long-term use analysis; discuss the limits of knowledge and the City's proposal for data gathering, monitoring and mitigation; and document whether the analysis supports a FONSI and, if not, identify requisite steps forward.</p>
<p>25. Reduce the bird-aircraft strike hazard at the JFK airport prior to APHIS completing a programmatic EIS for its gull-control program.</p>	<p>Severe bird-aircraft hazard conditions at the JFK airport prompted FAA to issue an emergency advisory.</p>	<p>USDA / APHIS</p>	<p>05/07/93</p>	<p>CEQ issued recommendations regarding immediate actions, the programmatic EIS, and the ultimate decisions. These included: the definition of an acceptable risk, compliance by Secretaries with 16 U.S.C. §460; abstinence by FWS from processing permits under a categorical exclusion; the development of a program to plant and maintain tall grasses and wildflowers, and cooperation amongst Port authorities and FWS in preparing the programmatic EIS.</p>

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26. Receive 144 spent fuel element from Belgium nuclear power plant prior to completing NEPA process.	Belgium nuclear reactor spent fuel element storage was filled to capacity. If the US did not accept the spent fuel elements, the spent fuel had the potential to be used for nuclear weapon production.	DOE	October 1993	Based on discussions with the Department of State, CEQ approved DOE proposal regarding alternative NEPA arrangements. However, Belgium refused the US offer to accept the fuel elements.
27. Block off streets around the White House complex to vehicular traffic.	Security was inadequate to protect the President, First Family and the White House complex.	Department of the Treasury	05/20-21/95	CEQ concurred with the Department of the Treasury that an emergency situation existed that required immediate action. An EA was prepared after closure.
28. Form spur roads by blading old fire roads and fuel breaks. The total acreage disturbed by the proposed emergency measures constitutes no more than 2.5 acres of land in the Otay WSA. The roads would be closed to public access.	Sudden and dramatic increase in wildfires caused the County of San Diego to declare a state of emergency. Threats to human life and endangered and plant life were identified.	DOI / BLM	06/19/96	CEQ concurred with BLM proposal to permit the State of California to begin construction of the proposed spur roads and heliports. Alternative arrangements included: FWS on site review for heliports; BLM consulting FWS if there is a change in the location of the proposed road or heliports; and a BLM archaeologist onsite during construction. Finally, the agency would use normal NEPA process for rehabilitation of disturbed areas after the emergency.

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29. Trench and terrace slopes that lost nearly all vegetation in a recent fire.	Recent fire burned 15,000 acres of federal, state and private land near Boise, Idaho. Conditions conducive to flooding, mudslides, and debris flows threaten human life and property, water quality and soil productivity. State, County and Local officials declared the situation to be a disaster.	DOI / BLM and USDA / Forest Service	09/19/96	CEQ approved alternative arrangements that included: distributing additional copies of the interagency report to interested parties; implementing use of vegetative screening; developing monitoring plan, evaluating possibility of restoring natural grade; and notifying CEQ upon termination of emergency action.
30. Deviation from the normal operation procedures under test 7 of the Experimental Program of Water Deliveries to Everglades National Park.	High levels of rainfall created extreme flooding conditions which threaten endangered species and public safety.	DOD /US Army	January 1998	CEQ approved alternative arrangements that included: immediate distribution of a revised final emergency EA; developing comprehensive plan for public involvement; notifying CEQ if unanticipated impacts occur; formally consulting with FWS after emergency; alternative action to begin immediately and terminate after emergency at which time full NEPA requirements would resume; and providing CEQ with requested information.

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<p>31. Remove dead, drowned and severely root-sprung trees that were damaged by windstorm in the National Forests and Grasslands of Texas.</p>	<p>Windstorm caused destruction of habitat for red-cockaded woodpeckers; also gave rise to concerns about risk of high intensity fires and possible bark beetle infestation.</p>	<p>USDA / Forest Service</p>	<p>03/04/98</p>	<p>CEQ approved alternative arrangements that included: Forest Service preparing an EA; only removing downed, dead or severely root-sprung trees; prioritizing tree removal by an interdisciplinary team; implementing long-term public involvement; not proceeding until emergency consultation under ESA is completed; maintaining records regarding tree removal priorities; establishing on-site monitoring team; and notifying CEQ if any modifications to these arrangements are necessary.</p>
<p>32. Remove dead, downed and damaged trees in wake of 07/04/99 windstorm affecting 478,000 acres of Superior National Forest. Action proposed for Gunflint Corridor.</p>	<p>One area of affected forest - Gunflint Corridor - is a 2 lane winding, dead-end road with 600 structures, including homes, with a high risk to people & homes requiring treatment of 3,896 acres.</p>	<p>USDA / Forest Service</p>	<p>08/11/99 CEQ response: 08/24/99</p>	<p>CEQ agreed with alternative arrangements that included: preparation of programmatic EA; joint CEQ/FS public meeting; scoping meetings and site visits for particular projects within the Gunflint Corridor; consulting with other interested parties (agencies & tribes); and using on-site monitoring team.</p>

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<p>33. Temporary, semi-permanent and permanent flood control measures following Cerro Grande Fire surrounding the Los Alamos National Laboratory in New Mexico.</p>	<p>High risk of soil erosion, flooding and debris flows threaten lives and property of the 10,000 residents in the communities of White Rock, the Pueblo of San Ildefonso and the Pueblo de Conchiti located downstream of Los Alamos National Laboratory.</p>	<p>DOE / National Nuclear Security Administration,</p>	<p>05/2000 CEQ response: 06/15/2000</p>	<p>CEQ agreed on alternative arrangements that included: publication of FR notice outlining the emergency actions taken, being undertaken, and intended in the near term to address the effects of the fire as well as the potential impacts of emergency actions and proposed mitigation measures (dam construction); planning for continuing public involvement; preparing and publishing a Special Environmental Analysis; employing monitoring and adaptive mitigation measures; and reporting to CEQ.</p>
<p>34. Reduce wildfire fuel load in approximately 35,000 acres of 147,000 acre “high risk zone” of storm-damaged forest.</p>	<p>340,000 acres of Ouachita National Forest damaged by ice storm, blocked 1700 miles of road, and increasing ten-fold fuel load in forest stands located in close proximity to private property.</p>	<p>USDA / Forest Service</p>	<p>03/15/01 CEQ response: 03/28/01</p>	<p>CEQ concurred with alternative arrangements that included: preparing programmatic environmental analysis for highest priority fuel treatments areas; providing for expedited public comment before adopting a final programmatic environmental analysis; completing project-specific EAs before fuel reductions are authorized; and providing those EAs to the public for short comment periods.</p>

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35. Commercial timber harvest on approx. 6200 acres and mechanical treatment of smaller fuels.	6,200 acres of Mark Twain National Forest land within two ¼ to ½ mile swaths of tornado damage (+80% of vegetation leveled) with fire risk to public safety and private property.	USDA / Forest Service	07/08/02 CEQ Response: 07/12/02	CEQ concurred with alternative arrangements that included: preparing programmatic environmental analysis for highest priority areas for fuel treatments; providing for expedited public comment before adopting a final programmatic environmental analysis; completing project-specific EA before fuel reductions are authorized that would be made public for short comment periods.

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36. Transporting nuclear materials from Libya to the U.S. and within the U.S.	The shipment 55,000 pounds of nuclear material and other sensitive equipment were airlifted out of Libya as directed by the President. To expedite removal of four cylinders of uranium hexafluoride (UF[6]) from Libya, the Administrator of the National Nuclear Security Administration invoked the national security provisions of 49 CFR 173.7(b), allowing the shipment.	DOE	Shortly before 01/27/04.	CEQ and the Environmental Protection Agency were briefed in advance of the mission. CEQ found the NNSA's request for alternative arrangements was appropriately limited to the actions necessary to address the immediate impacts and risks associated with this emergency. Based on the briefing that DOE personnel provided, and their commitment to outreach to EPA and appropriate first responders, CEQ concluded that the NNSA's assessment of the environmental impact of the proposed action, including incorporation of an existing classified analysis of a similar scenario, provided sufficient alternative arrangements for NEPA compliance. The CEQ also was briefed following the completion of the mission. See: 69 Federal Register 10440-10441 (March 5, 2004)

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<p>37. Issue Stafford Act's Public Assistance (PA) Grant Program grant assistance for the repair, replacement, or restoration of critical infrastructure (i.e., Hospitals and health care facilities; Utilities and Wastewater Treatment Plants; Permanent police and fire stations; Government and court administration buildings; Detention Centers; and Permanent schools) in New Orleans, LA. Although the restoration of eligible infrastructure substantially to its pre-disaster conditions is excluded from NEPA (§ 5159 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act), FEMA anticipated applications from the State of Louisiana will reflect future demands rather than merely returning to pre-disaster conditions.</p>	<p>Disaster-related damages to the critical physical infrastructure in the New Orleans Metropolitan Area (NOMA) by Hurricanes Katrina on August 29, 2005, rendered parts of the city inoperable and uninhabitable. Without this critical infrastructure the city could not adequately support a safe and healthful reconstruction and repopulation process. The President issued a major disaster declaration.</p>	<p>DHS / FEMA</p>	<p>CEQ was first contacted in November 2005. CEQ Response: 12/06/05</p>	<p>CEQ approved alternative arrangements to expedite the processing of grant applications. The measures included: regular public outreach including special efforts to involve NOMA residents, including those relocated outside of NOMA; developing an internet page for environmental related public notices and environmental related information specific to the proposed actions in NOMA that would also track other projects in NOMA in order to provide the public with information on the individual and cumulative nature of impacts of the FEMA funded actions; establishing criteria for each type of critical physical infrastructure reconstruction project to mitigate or avoid significant environmental impacts whenever possible; and using the website to document agency actions (receiving, approving, conditioning, or denying critical infrastructure grant applications) as well as their environmental effects. See: http://www.fema.gov/plan/ehp/noma/index.shtm</p>

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<p>38. Secretary of the Department of Energy on December 20, 2005, issued an emergency order directing Mirant, to generate electricity at the coal-fired Potomac River Generating Station in Alexandria VA under certain, limited circumstances.</p>	<p>Plant's operations were exceeding the National Ambient Air Quality Standards of the Clean Air Act and closure of the plant reduced the reliability of the electrical supply to much of the central business district of the District of Columbia, many federal institutions, the Georgetown area in D.C., as well as other portions of Northwest D.C., and the District of Columbia Water and Sewer Authority's Blue Plains Advanced Water Treatment Plant, placing these electrical customers in risk of a blackout.</p>	<p>DOE</p>	<p>Consulted 12/20 thru 01/17/06. Request and CEQ response: 01/18/06</p>	<p>CEQ approved the following alternative arrangements: (1) prepare a Special Environmental Analysis (SEA) that will examine the potential impacts from issuance of the order, and identify potential mitigation measures; (2) provide opportunities for public involvement by disseminating information related to the environmental effects of Mirant's operations and by accepting public comment on this notice, the compliance plan Mirant submitted to DOE, and the SEA; (3) continue consultations with appropriate agencies with regard to relevant environmental issues; and (4) identify in the SEA any steps that DOE believes can be taken to mitigate the impacts from its Order. See: 71 Federal Register 69102 (Nov. 29, 2006)</p>

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<p>39. Lower Lake Cumberland behind Wolf Creek Dam to an elevation 680 feet above mean sea level for an indefinite period and accelerate a grouting program in the most crucial areas of the Wolf Creek Dam embankment to further reduce seepage under the dam.</p>	<p>Dam in danger of breaking and flooding down river through Kentucky and into Nashville, TN.</p>	<p>USACE</p>	<p>Contacted: 01/09/07</p> <p>Request and CEQ response: 01/18/07</p>	<p>CEQ approved alternative arrangements requiring USACE to: (1) issue an interim emergency measures decision document including discussion of alternatives and likely environmental effects as they are currently known, coordination with the U.S. Fish and Wildlife Service pursuant to the Endangered Species Act (ESA), the Fish and Wildlife Coordination Act, and other relevant authorities, and with the EPA and other appropriate Federal, state, and local leaders and agencies, and a communication plan for the public and stakeholders; and (2) issue a Notice of Intent to prepare a NEPA document would addresses the Corps' existing and future efforts to preserve, repair, strengthen, and operate the Wolf Creek Dam and Lake Cumberland, including mitigation measures that can be implemented to minimize adverse effects from lowered lake levels and other measures.</p>

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40. New Orleans flood protection	Reconstruction of levy(s) damaged in Hurricane Katrina for 100 year flood protection	USACE		See: http://www.mvn.usace.army.mil/pd/Envir_Processes_NEPA/Index.htm and www.nolaenvironmental.gov .
41. Navy MFA-sonar training in waters off southern California	Naval training necessary for deployment	US Navy	Request submitted: 01/10-11/08 CEQ response: 01/15/08	See: http://www.socalrangecomplexeis.com at Documents