

[This article](#) notes that the Army Corps of Engineers is going to try to use emergency designations to reduce or eliminate environmental requirements (environmental review under the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA)) for hundreds of projects that it is reviewing permits for. The projects include a number of large-scale natural gas pipelines and other major infrastructure projects.

There is obviously a debate to be had about compliance costs for major infrastructure projects, and also about which projects should receive streamlined review. But I just want to flag a real long-term risk here from the agency's proposed course. Few, if any, of these projects would be thought of as qualifying under a traditional definition of an "emergency" – such as recovery after a major natural disaster, or a state of war. They thus represent a dramatic increase in the scope of application of the concept of emergency – something that was also pushed by climate activists in the last administration who were calling for a declaration of a "climate emergency," and by the first Trump Administration with respect to its border wall.

But there is a real cost to expanding the scope of emergency powers and then using it to push your partisan agenda – on top of the obvious cost that it allows evasion of statutory requirements imposed by Congress. The thing about emergencies is that.... they are "emergent" – in other words, they require rapid response. Having a long debate over whether there really is an emergency sort of defeats the purpose. That in turn means that you would want broad consensus that something is truly an emergency, which itself depends on trust. But if one side perceives the other to be abusing the emergency concept for their own purposes, you have diminished trust – which means that declarations of emergencies will become political footballs that one side will contest as much as it can. That is a real problem for true emergencies, since the lack of trust will at least reduce cooperation, and might produce conflict that prevents the application of the doctrine. For instance, going forward we might see more skepticism on all sides of the use of emergency powers to waive regulatory requirements, and more litigation over their use, which will ill serve everyone in the long-run. Unfortunately, thinking about the long-run appears to be in short supply among federal policymakers right now...