



Federal Emergency Management Agency

Washington, D.C. 20472

June 20, 1997

MEMORANDUM FOR: Regional Environmental Officers

FROM: Richard S. Shivar [signed]
Acting Environmental Officer

SUBJECT: ENVIRONMENTAL POLICY MEMO #5
Documentation of National Environmental Policy Act (NEPA) Categorical Exclusions (CATEX)

The amount of environmental analysis and documentation required for FEMA actions that are categorically excluded from the preparation of an environmental assessment (EA) or environmental impact statement (EIS) pursuant to NEPA, as implemented at 44 CFR Part 10 may be reduced according to the terms of this policy memo. After consultation with the Council on Environmental Quality (CEQ), FEMA has concluded that it is appropriate to reduce the amount of CATEX documentation required by FEMA for certain categories of action that, due to the nature of the action, have little potential to impact the environment. The determination that a FEMA action qualifies as a CATEX is under the authority of the Regional Director (44 CFR 10.8(d)(4)) or the Associate Director when addressing programmatic or directorate activities. In regions with a Regional Environmental Officer (REO), the oversight responsibility of CATEX determination and appropriate level of CATEX documentation ultimately rests with the REO.

This memo defines three levels for the administrative recordation of a CATEX:

Level 1 — No Documentation

Categorically excludable FEMA actions that are of a day-to-day administrative nature and generally have no potential to impact the environment require no NEPA documentation. These actions are described in exclusion categories: 44 CFR 10.8(d)(2)(i), (ii), (iii), (iv), (v), (vi), (viii), (x), (xi), (xiv), (xviii), and (xix) (see attachment). Unless available information indicates to the contrary, extraordinary conditions need not be addressed at this level.

Level 2 — Notation

Categorically excludable actions that generally have no potential to impact the environment require no documentation except that which might be necessary with respect to historic resources. These actions are described in exclusion categories (vii), (ix), (xii), (xiii), (xv), and (xvii). When required the administrative record should document all consultation and agreements implemented to comply with the National Historic Preservation Act (NHPA). If the action is in compliance with the NHPA, the only NEPA recordation required is the notation of the particular qualifying CATEX on the application, approval, or funding document. The potential for extraordinary circumstances related to the proposed action must still be addressed but may be determined by FEMA. If the nature of a particular action is such that extraordinary circumstances can be expected, it should be reviewed and documented at Level 3.

Level 3 — Full Documentation

Any action that can be Categorical Excluded and is not covered in Levels 1 and 2 requires a full CATEX review and documentation as described in the FEMA NEPA Desk Reference. This includes actions

described in category (xvi) or actions in any category where there is an expectation of possible extraordinary circumstances. Since these actions have some potential to impact the environment, a careful inquiry to identify extraordinary circumstances is required, including consultation with resource agencies as appropriate. Because of the potential for extraordinary circumstances and, thus, for an EA to be needed, FEMA must conclude NEPA review and documentation of these actions prior to initiation of the action.

General Considerations

For actions that qualify for a CATEX at any level, as with any statutorily excluded actions, there still remains the requirement to comply with other Federal statutes, such as the Endangered Species Act, the Clean Water Act, the National Historic Preservation Act, etc., as well as Executive Orders on Floodplains, Wetlands, and Environmental Justice. NEPA documentation, i.e. CATEX (level 3), EA, and EIS, should contain or reference the letter, permit, consultation, etc. necessary to comply with the requirements of the other environmental laws and Executive Orders. Where NEPA documentation is not required, i.e. level 1 and 2 CATEXs and statutorily excluded actions, documentation necessary for indicating compliance with the other laws would be handled separately, as required by the particular law.

This policy memo becomes effective immediately and applies to any action for which the DSR or project application is evaluated by FEMA on or after the date of this memo. Please advise and help regional program offices in implementing this change and make a special effort to work with all active DFOs in your region so they can modify their procedures to benefit from this change.

Direct any questions regarding this memo and its implementation to Brent Paul (202) 646-3032.

Attachment

44CFR10.8(d)(2) List of Exclusion Categories

FEMA has determined that the following categories of actions have no significant effect on the human environment and are, therefore, categorically excluded from the preparation of environmental impact statements and environmental assessments except where extraordinary circumstances as defined in (d)(5) exist. If the action is of an emergency nature as described in § 316 of the Stafford Act (42 U.S.C. 5159), it is statutorily excluded and is noted with [SE].

- (i) Administrative actions such as personnel actions, travel, procurement of supplies, etc., in support of normal day-to-day activities and disaster related activities;
- (ii) Preparation, revision, and adoption of regulations, directives, manuals, and other guidance documents related to actions that qualify for categorical exclusions;
- (iii) Studies that involve no commitment of resources other than manpower and associated funding;
- (iv) Inspection and monitoring activities, granting of variances, and actions to enforce Federal, state, or local codes, standards or regulations;
- (v) Training activities and both training and operational exercises utilizing existing facilities in accordance with established procedures and land use designations;
- (vi) Procurement of goods and services for support of day-to-day and emergency operational activities, and the temporary storage of goods other than hazardous materials, so long as storage occurs on previously disturbed land or in existing facilities;
- (vii) The acquisition of properties and the associated demolition/removal [see ¶ (xii)] or relocation of structures [see ¶ (xiii)] under any applicable authority when the acquisition is from a willing seller, the buyer coordinated acquisition planning with affected authorities, and the acquired property will be dedicated in perpetuity to uses that are compatible with open space, recreational, or wetland practices.
- (viii) Acquisition or lease of existing facilities where planned uses conform to past use or local land use requirements;
- (ix) Acquisition, installation, or operation of utility and communication systems that use existing distribution systems or facilities, or currently used infrastructure rights-of-way;
- (x) Routine maintenance, repair, and grounds-keeping activities at FEMA facilities;
- (xi) Planting of indigenous vegetation;
- (xii) Demolition of structures and other improvements or disposal of uncontaminated structures and other improvements to permitted off-site locations, or both;
- (xiii) Physical relocation of individual structures where FEMA has no involvement in the relocation site selection or development;
- (xiv) Granting of community-wide exceptions for floodproofed residential basements meeting the requirements of 44 CFR 60.6(c) under the National Flood Insurance Program;
- (xv) Repair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location; [SE, in part]
- (xvi) Improvements to existing facilities and the construction of small scale hazard mitigation measures in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use; provided the operation of the completed project will not, of itself, have an adverse effect on the quality of the human environment;
- (xvii) Actions conducted within enclosed facilities where all airborne emissions, waterborne effluent, external radiation levels, outdoor noise, and solid and bulk waste disposal practices comply with existing Federal, state, and local laws and regulations;
- (xviii) The following planning and administrative activities in support of emergency and disaster response and recovery:
 - (A) Activation of the Emergency Support Team and convening of the Catastrophic Disaster Response Group at FEMA headquarters;
 - (B) Activation of the Regional Operations Center and deployment of the Emergency Response Team, in whole or in part;
 - (C) Deployment of Urban Search and Rescue teams;
 - (D) Situation Assessment including ground and aerial reconnaissance;

(E) Information and data gathering and reporting efforts in support of emergency and disaster response and recovery and hazard mitigation; and

(xix) The following emergency and disaster response, recovery and hazard mitigation activities under the Stafford Act:

(A) General Federal Assistance (§ 402); [SE]

(B) Essential Assistance (§ 403); [SE]

(C) Debris Removal (§ 407) [SE]

(D) Temporary Housing (§ 408), except locating multiple mobile homes or other readily fabricated dwellings on sites, other than private residences, not previously used for such purposes;

(E) Unemployment Assistance (§ 410);

(F) Individual and Family Grant Programs (§ 411), except for grants that will be used for restoring, repairing or building private bridges, or purchasing mobile homes or other readily fabricated dwellings;

(G) Food Coupons and Distribution (§ 412);

(H) Food Commodities (§ 413);

(I) Legal Services (§ 415);

(J) Crisis Counseling Assistance and Training (§ 416);

(K) Community Disaster Loans (§ 417);

(L) Emergency Communications (§ 418);

(M) Emergency Public Transportation (§ 419);

(N) Fire Suppression Grants (§ 420); and

(O) Federal Emergency Assistance (§ 502) [SE].