



Federal Emergency Management Agency

Washington, D.C. 20472

February 27, 1996

MEMORANDUM FOR: Associate Directors
Regional Directors
Federal Coordinating Officers

FROM: Richard S. Shivar (signed)
Acting Environmental Officer

SUBJECT: ENVIRONMENTAL POLICY MEMO #4
Availability and Use of the Updated list of Categorical Exclusions
Published February 5, 1996 as a Revision of 44 CFR 10.8.

This memorandum distributes and discusses use of the final rule for the revision of 44 CFR 10.8 which became effective February 5, 1996, the day it was published in the Federal Register. This rule generally expands the categories of FEMA actions that normally would not require an environmental impact statement or an environmental assessment to fulfill the requirements of the National Environmental Policy Act (NEPA). Actions fitting these categories are commonly referred to as categorical exclusions or CATEXs.

Any action that FEMA initiates or funds whether through program funds (mitigation, public assistance, flood insurance, etc.), funds provided to states, or internal administrative or construction expenditures must undergo environmental review pursuant to NEPA unless that action is statutorily excluded from NEPA by section 316 of the Stafford Act or qualifies as an emergency action under 44 CFR 10.13. NEPA review, for a significant portion of those actions, can be satisfied by a relatively simple documented determination that the action fits one of the exclusion categories defined in this rule. This CATEX documentation, as with any NEPA documentation must be completed prior to initiation of the action.

When it is determined that an action fits an exclusion category, two additional considerations must be addressed. First, it must be determined if extraordinary circumstances exist. The identification of one or more extraordinary circumstances associated with an action, that would otherwise qualify for a CATEX, can override that CATEX and trigger the need for an EA or EIS. (The list of extraordinary circumstances, which has also been revised in this rule change, is found in 10.8.(d)(3)). Second, there are other environmental and related Federal statutes and Executive Orders (EOs) that are often addressed within the NEPA process which, however, have their own separate legally enforceable requirements and penalties. Actions whose NEPA review is shortened by being CATEXed or actions excluded from NEPA review for statutory or emergency reasons, must still meet the full requirements of these other statutes and EOs which address such areas as wetlands, historic preservation, cultural resources, endangered species, hazardous materials, etc.

The CATEXs on this revised list can be immediately applied to any qualifying project. A project for which an environmental assessment has been started, but which now qualifies for a CATEX may be processed as a CATEX. The exception might be those projects where a formal review or comment process for the EA has been publicly initiated by published announcement.

While we hope these new CATEXs have captured all the areas where CATEXs are needed and can be used, we realize that the identification exclusion categories is the result of ongoing experience. Therefore the submission of additions and modifications to this list is encouraged and will be thoughtfully considered by this office. Please direct any questions on this memo to Brent Paul (202/646-3032).

Enclosure

(Federal Register Vol. 61, No. 24, page 4227-32, February 5, 1996. Also see 44CFR 10.8.)