

§ 10.9

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wilderness areas, wild and scenic rivers, sole or principal drinking water aquifers;

(viii) Potential for adverse effects on health or safety; and

(ix) Potential to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

(x) Potential for significant cumulative impact when the proposed action is combined with other past, present and reasonably foreseeable future actions, even though the impacts of the proposed action may not be significant by themselves.

(4) *Documentation.* The Regional Director will prepare and maintain an administrative record of each proposal that is determined to be categorically excluded from the preparation of an environmental impact statement or an environmental assessment.

(5) *Revocation.* The Regional Director shall revoke a determination of categorical exclusion and shall require a full environmental review if, subsequent to the granting an exclusion, the Regional Director determines that due to changes in the proposed action or in light of new findings, the action no longer meets the requirements for a categorical exclusion.

(6) *Changes to the list of exclusion categories.* (i) The FEMA list of exclusion categories will be continually reviewed and refined as additional categories are identified and experience is gained in the categorical exclusion process. An office, directorate, or administration of FEMA may, at any time, recommend additions or changes to the FEMA list of exclusion categories.

(ii) Offices, directorates, and administrations of FEMA are encouraged to develop additional categories of exclusions necessary to meet their unique operational and mission requirements.

(iii) If an office, directorate, or administration of FEMA proposes to change or add to the list of exclusion categories, it shall first:

(A) Obtain the approval of the Environmental Officer and the Office of the General Counsel; and

(B) Publish notice of such proposed change or addition in the FEDERAL REGISTER at least 60 days before the effective date of such change or addition.

(e) *Actions that normally require an environmental assessment.* When a proposal is not one that normally requires an environmental impact statement and does not qualify as a categorical exclusion, the Regional Director shall prepare an environmental assessment.

(f) *Documentation.* The Regional Director will prepare and maintain an administrative record of each proposal that is determined to be categorically excluded from the preparation of an environmental impact statement or an environmental assessment.

(g) *Actions that normally require an environmental assessment.* When a proposal is not one that normally requires an environmental impact statement and does not qualify as a categorical exclusion, the Regional Director shall prepare an environmental assessment.

[45 FR 41142, June 18, 1980, as amended at 46 FR 2049, Jan. 8, 1981; 46 FR 54346, Nov. 3, 1981; 47 FR 13149, Mar. 29, 1982; 52 FR 5285, Feb. 20, 1987; 59 FR 954, Jan. 7, 1994; 61 FR 4230, Feb. 5, 1996; 61 FR 10688, Mar. 15, 1996; 66 FR 57347, Nov. 14, 2001]

§ 10.9 Preparation of environmental assessments.

(a) *When to prepare.* The Regional Director shall begin preparation of an environmental assessment as early as possible after the determination that an assessment is required. The Regional Director may prepare an environmental assessment at any time to assist planning and decision-making.

(b) *Content and format.* The environmental assessment is a concise public document to determine whether to prepare an environmental impact statement, aiding in compliance with NEPA when no EIS is necessary, and facilitating preparation of a statement when one is necessary. Preparation of an environmental assessment generally will not require extensive research or lengthy documentation. The environmental assessment shall contain brief discussion of the following:

(1) Purpose and need for the proposed action.

(2) Description of the proposed action.

(3) Alternatives considered.

(4) Environmental impact of the proposed action and alternatives.

(5) Listing of agencies and persons consulted.

(6) Conclusion of whether to prepare an environmental impact statement.

(c) *Public participation.* The Regional Director shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing environmental assessments. In determining "to the extent practicable," the Regional Director shall consider:

(1) Magnitude of the proposal;

(2) Likelihood of public interest;

(3) Need to act quickly;

(4) Likelihood of meaningful public comment;

(5) National security classification issues;

(6) Need for permits; and

(7) Statutory authority of environmental agency regarding the proposal.

(d) *When to prepare an EIS.* The Regional Director shall prepare an environmental impact statement for all major Agency actions significantly affecting the quality of the human environment. The test of what is a "significant" enough impact to require an EIS is found in the CEQ regulations at 40 CFR 1508.27.

(e) *Finding of No Significant Impact.* If the Regional Director determines on the basis of the environmental assessment not to prepare an environmental impact statement, the Regional Director shall prepare a finding of no significant impact in accordance with 40 CFR 1501.4(e) of the CEQ regulations. The assessment and the finding shall be submitted to the Environmental Officer and the Office of General Counsel (OGC) for approval. If Environmental Officer and OGC approval is obtained, the Regional Director shall then make the finding of no significant impact available to the public as specified in §1506.6 of the CEQ regulations. A finding of no significant impact is not required when the decision not to prepare an environmental impact statement is based on a categorical exclusion.

(f) *Environmental Officer or OGC Disallowance.* If the Environmental Officer or OGC disagrees with the finding of no significant impact, the Regional Director shall prepare an environmental impact statement. Prior to preparation of an EIS, the Regional Director shall forward a notice of intent to prepare the

EIS to the Environmental Officer who shall publish such notice in the FEDERAL REGISTER.

(g) *EIS determination of Regional Director.* The Regional Director may decide on his/her own to prepare an environmental impact statement. In such case, the Regional Director shall forward a notice of intent to prepare the EIS to the Environmental Officer who shall publish such notice in the FEDERAL REGISTER. The notice of intent shall be published before initiation of the scoping process.

[45 FR 41142, June 18, 1980, as amended at 47 FR 13149, Mar. 29, 1982]

§10.10 Preparation of environmental impact statements.

(a) *Scoping.* After determination that an environmental impact statement will be prepared and publication of the notice of intent, the Regional Director will initiate the scoping process in accordance with §1501.7 of the CEQ regulations.

(b) *Preparation.* Based on the scoping process, the Regional Director will begin preparation of the environmental impact statement. Detailed procedures for preparation of the environmental impact statement are provided in part 1502 of the CEQ regulations.

(c) *Supplemental Environmental Impact Statements.* The Regional Director may at any time supplement a draft or final environmental impact statement. The Regional Director shall prepare a supplement to either the draft or final environmental impact statement when required under the criteria set forth in §1502.9(2). The Regional Director will prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft or final statement and will introduce the supplement into their formal administrative record.

(d) *Circulation of Environmental Impact Statements.* The Regional Director shall circulate draft and final environmental impact statements as prescribed in §1502.19 of CEQ regulations. Prior to signing off on a draft or final impact statement, the Regional Director shall obtain the approval of the Environmental Officer and OGC.

[45 FR 41142, June 18, 1980, as amended at 47 FR 13149, Mar. 29, 1982]