PART 10—ENVIRONMENTAL CONSIDERATIONS

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SOURCE: 45 FR 41142, June 18, 1980, unless otherwise noted.

Subpart A—General

§ 10.1 Background and purpose.

(a) This part implements the Council on Environmental Quality (CEQ) regulations (National Environmental Policy Act Regulations, 43 FR 55978 (1978)) and provides policy and procedures to enable Federal Emergency Management Agency (FEMA) officials to be informed of and take into account environmental considerations when authorizing or approving major FEMA actions that significantly affect the environment in the United States. The Council on Environmental Quality Regulations implement the procedural provisions, section 102(2), of the National Environmental Policy Act of 1969, as amended (hereinafter NEPA) (Pub. L. 91–190, 42 U.S.C. 4321 *et seq.*), and Executive Order 11991, 42 FR 26967 (1977).

(b) Section 1507.3, Council on Environmental Quality Regulations (National Environmental Policy Act Regulations, 43 FR 55978 (1978)) directs that Federal agencies shall adopt procedures to supplement the CEQ regulations. This regulation provides detailed FEMA implementing procedures to supplement the CEQ regulations.

(c) The provisions of this part must be read together with those of the CEQ regulations and NEPA as a whole when applying the NEPA process.

§ 10.2 Applicability and scope.

The provisions of this part apply to the Federal Emergency Management Agency, (hereinafter referred to as FEMA) including any office or administration of FEMA, and the FEMA regional offices.

§ 10.3 Definitions.

(a) Regional Director means the Regional Director of the Federal Emergency Management Agency for the region in which FEMA is acting.

(b) The other terms used in this part are defined in the CEQ regulations (40 CFR part 1508).

(c) Environmental Officer means the Chief, Public Assistance Division, Office of Disaster Assistance Programs, State and Local Programs and Support Directorate.

[45 FR 41142, June 18, 1980, as amended at 47 FR 13149, Mar. 29, 1982; 50 FR 40006, Oct. 1, 1985]

§ 10.4 Policy.

(a) FEMA shall act with care to assure that, in carrying out its responsibilities, including disaster planning, response and recovery and hazard mitigation and flood insurance, it does so in a manner consistent with national environmental policies. Care shall be taken to assure, consistent with other considerations of national policy, that all practical means and measures are used to protect, restore, and enhance the quality of the environment, to avoid or minimize adverse environmental consequences, and to attain the objectives of:

(1) Achieving use of the environment without degradation, or undesirable and unintended consequences;

(2) Preserving historic, cultural and natural aspects of national heritage and maintaining, wherever possible, an environment that supports diversity and variety of individual choice;

(3) Achieving a balance between resource use and development within the sustained carrying capacity of the ecosystem involved; and

(4) Enhancing the quality of renewable resources and working toward the maximum attainable recycling of depletable resources.

(b) *FEMA shall:*

(1) Assess environmental consequences of FEMA actions in accordance with §§ 10.9 and 10.10 of this part and parts 1500 through 1508 of the CEQ regulations;

(2) Use a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences, and environmental considerations, in planning and decisionmaking where there is a potential for significant environmental impact;

(3) Ensure that presently unmeasured environmental amenities are considered in the decisionmaking process;

(4) Consider reasonable alternatives to recommended courses of action in any proposal that involves conflicts concerning alternative uses of resources; and

(5) Make available to States, counties, municipalities, institutions and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment.

Subpart B—Agency Implementing Procedures

§ 10.5 Responsibilities.

(a) *The Regional Directors shall*, for each action not categorically excluded from this regulation and falling within their respective jurisdictions:

(1) Prepare an environmental assessment and submit such assessment to the Environmental Officer and the Office of General Counsel (OGC);

(2) Prepare a finding of no significant impact, or prepare an environmental impact statement;

(3) Coordinate and provide information regarding environmental review with applicants for FEMA assistance;

(4) Prepare and maintain an administrative record for each proposal that is determined to be categorically excluded from this regulation;

(5) Involve environmental agencies, applicants, and the public to the extent practicable in preparing environmental assessments;

(6) Prepare, as required, a supplement to either the draft or final environmental impact statement;

(7) Circulate draft and final environmental impact statements;

(8) Ensure that decisions are made in accordance with the policies and procedures of NEPA and this part, and prepare a concise public record of such decisions;

(9) Consider mitigating measures to avoid or minimize environmental harm, and, in particular, harm to and within floodplains and wetlands; and

(10) Review and comment upon, as appropriate, environmental assessments and impact statements of other Federal agencies and of State and local entities within their respective regions.

(b) *The Environmental Officer shall:*

(1) Determine, on the basis of the environmental assessment whether an environmental impact statement is required, or whether a finding of no significant impact shall be prepared;

(2) Review all proposed changes or additions to the list of categorical exclusions;

(3) Review all findings of no significant impact;

(4) Review all proposed draft and final environmental statements;

(5) Publish the required notices in the FEDERAL REGISTER;

(6) Provide assistance in the preparation of environmental assessments and impact statements and assign lead agency responsibility when more than one FEMA office or administration is involved;

(7) Direct the preparation of environmental documents for specific actions when required;

(8) Comply with the requirements of this part when the Director of FEMA promulgates regulations, procedures or other issuances making or amending Agency policy;

(9) Provide, when appropriate, consolidated FEMA comments on draft

and final impact statements prepared for the issuance of regulations and procedures of other agencies;

(10) Review FEMA issuances that have environmental implications;

(11) Maintain liaison with the Council on Environmental Quality, the Environmental Protection Agency, the Office of Management and Budget, other Federal agencies, and State and local groups, with respect to environmental analysis for FEMA actions affecting the environment.

(c) *The Heads of the Office and Administrations of FEMA shall:*

(1) Assess environmental consequences of proposed and on-going programs within their respective organizational units;

(2) Prepare and process environmental assessments and environmental impact statements for all regulations, procedures and other issuances making or amending program policy related to actions which do not qualify for categorical exclusions;

(3) Integrate environmental considerations into their decisionmaking processes;

(4) Ensure that regulations, procedures and other issuances making or amending program policy are reviewed for consistency with the requirements of this part;

(5) Designate a single point of contact for matters pertaining to this part;

(6) Provide applicants for FEMA assistance with technical assistance regarding FEMA's environmental review process.

(d) *The Office of General Counsel of FEMA shall:*

(1) Provide advice and assistance concerning the requirements of this part;

(2) Review all proposed changes or additions to the list of categorical exclusions;

(3) Review all findings of no significant impact; and

(4) Review all proposed draft and final environmental impact statements.

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

§ 10.6 Making or amending policy.

For all regulations, procedures, or other issuances making or amending policy, the head of the FEMA office or administration establishing such policy shall be responsible for application of this part to that action. This does not apply to actions categorically excluded. For all policy-making actions not categorically excluded, the head of the office or administration shall comply with the requirements of this part. Thus, for such actions, the office or administration head shall assume the responsibilities that a Regional Director assumes for a FEMA action in his/her respective region. For such policy-making actions taken by the Director of FEMA, the Environmental Officer shall assume the responsibilities that a Regional Director assumes for a FEMA action in his/her respective region.

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

§ 10.7 Planning.

(a) *Early planning*. The Regional Director shall integrate the NEPA process with other planning at the earliest possible time to ensure that planning decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts.

(b) *Lead agency*. To determine the lead agency for policy-making in which more than one FEMA office or administration is involved or any action in which another Federal agency is involved, FEMA offices and administrations shall apply criteria defined in § 1501.5 of the CEQ regulation. If there is disagreement, the FEMA offices and/or administrations shall forward a request for lead agency determination to the Environmental Officer;

(1) The Environmental Officer will determine lead agency responsibility among FEMA offices and administration.

(2) In those cases involving a FEMA office or administration and another Federal agency, the Environmental Officer will attempt to resolve the differences. If unsuccessful, the Environmental Officer will file the request with the Council on Environmental Quality for determination.

(c) *Technical assistance to applicants*. (1) Section 1501.2(d) of the CEQ regulations requires agencies to provide for early involvement in actions which, while planned by private applicants or

other non-Federal entities, require some form of Federal approval. To implement the requirements of § 1501.2(d),

(i) The heads of the FEMA offices and administration shall prepare where practicable, generic guidelines describing the scope and level of environmental information required from applicants as a basis for evaluating their proposed actions, and make these guidelines available upon request.

(ii) The Regional Director shall provide such guidance on a project-by-project basis to applicants seeking assistance from FEMA.

(iii) Upon receipt of an application for agency approval, or notification that an application will be filed, the Regional Director shall consult as required with other appropriate parties to initiate and coordinate the necessary environmental analyses.

(2) To facilitate compliance with the requirements of paragraph (a) of this section, applicants and other non-Federal entities are expected to:

(i) Contact the Regional Director as early as possible in the planning process for guidance on the scope and level of environmental information required to be submitted in support of their application;

(ii) Conduct any studies which are deemed necessary and appropriate by FEMA to determine the impact of the proposed action on the human environment;

(iii) Consult with appropriate Federal, regional, State, and local agencies and other potentially interested parties during preliminary planning stages to ensure that all environmental factors are identified;

(iv) Submit applications for all Federal, regional, State, and local approvals as early as possible in the planning process;

(v) Notify the Regional Director as early as possible of all other Federal, regional, State, local, and Indian tribe actions required for project completion so that FEMA may coordinate all Federal environmental reviews; and

(vi) Notify the Regional Director of all known parties potentially affected by or interested in the proposed action.

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

§ 10.8 Determination of requirement for environmental review.

The first step in applying the NEPA process is to determine whether to prepare an environmental assessment or an environmental impact statement. Early determination will help ensure that necessary environmental documentation is prepared and integrated into the decision-making process. Environmental impact statements will be prepared for all major Agency actions (see 40 CFR 1508.18) significantly (see 40 CFR 1508.27) affecting the quality of the human environment.

(a) In determining whether to prepare an environmental impact statement (EIS) the Regional Director will first determine whether the proposal is one which:

(1) Normally requires an environmental impact statement; or

(2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

(b) *Actions that normally require an EIS.* (1) In some cases, it will be readily apparent that a proposed action will have significant impact on the environment. In that event, the Regional Director will, pursuant to § 10.9(g) of this part, submit the notice of preparation of an environmental impact statement to the Environmental Officer.

(2) To assist in determining those actions that normally do require an environmental impact statement, the following criteria apply:

(i) If an action will result in an extensive change in land use or the commitment of a large amount of land;

(ii) If an action will result in a land use change which is incompatible with the existing or planned land use of the surrounding area;

(iii) If many people will be affected;

(iv) If the environmental impact of the project is likely to be controversial;

(v) If an action will affect, in large measure, wildlife populations and their habitats, important natural resources, floodplains, wetlands, estuaries, beaches, dunes, unstable soils, steep slopes, aquifer recharge areas, or delicate or rare ecosystems, including endangered species;

(vi) If an action will result in a major adverse impact upon air or water quality;

(vii) If an action will adversely affect a property listed on the National Register of Historic Places or eligible for listing on the Register if, after consultation with the Advisory Council on Historic Preservation an environmental assessment is not deemed sufficient;

(viii) If an action is one of several actions underway or planned for an area and the cumulative impact of these projects is considered significant in terms of the above criteria;

(ix) If an action holds potential for threat or hazard to the public; or

(x) If an action is similar to previous actions determined to require an environmental impact statement.

(3) In any case involving an action that normally does require an environmental impact statement, the Regional Director may prepare an environmental assessment to determine if an environmental impact statement is required.

(c) *Statutory exclusions.* The following actions are statutorily excluded from NEPA and the preparation of environmental impact statements and environmental assessments by section 316 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, 42 U.S.C. 5159;

(1) Action taken or assistance provided under sections 402, 403, 407, or 502 of the Stafford Act; and

(2) Action taken or assistance provided under section 406 of the Stafford Act that has the effect of restoring facilities substantially as they existed before a major disaster or emergency.

(d) *Categorical Exclusions (CATEXs).* CEQ regulations at 40 CFR 1508.4 provide for the categorical exclusion of actions that do not individually or cumulatively have a significant impact on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. Full implementation of this concept will help FEMA avoid unnecessary or duplicate effort and concentrate resources on significant environmental issues.

(1) *Criteria.* The criteria used for determination of those categories of actions that normally do not require either an environmental impact statement or an environmental assessment include:

(i) Minimal or no effect on environmental quality;

(ii) No significant change to existing environmental conditions; and

(iii) No significant cumulative environmental impact.

(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 paragraph (d)(5) of this section 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 paragraph (d)(2)(xii) of this section] or relocation of structures [see paragraph (d)(2)(xiii) of this section] 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 Management Assistance Grants; and

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

(3) *Extraordinary circumstances.* If extraordinary circumstances exist within an area affected by an action, such that an action that is categorically excluded from NEPA compliance may have a significant adverse environmental impact, an environmental assessment shall be prepared. Extraordinary circumstances that may have a significant environmental impact include:

(i) Greater scope or size than normally experienced for a particular category of action;

(ii) Actions with a high level of public controversy;

(iii) Potential for degradation, even though slight, of already existing poor environmental conditions;

(iv) Employment of unproven technology with potential adverse effects or actions involving unique or unknown environmental risks;

(v) Presence of endangered or threatened species or their critical habitat, or archaeological, cultural, historical or other protected resources;

(vi) Presence of hazardous or toxic substances at levels which exceed Federal, state or local regulations or standards requiring action or attention;

(vii) Actions with the potential to affect special status areas adversely or other critical resources such as wetlands, coastal zones, wildlife refuge and 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]

§ 10.11 Environmental information.

Interested persons may contact the Environmental Officer or the Regional Director for information regarding FEMA's compliance with NEPA.

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

§ 10.12 Pre-implementation actions.

(a) *Decision-making*. The Regional Director shall ensure that decisions are made in accordance with the policies and procedures of the Act and that the NEPA process is integrated into the decision-making process. Because of the diversity of FEMA, it is not feasible to describe in this part the decision-making process for each of the various FEMA programs. Proposals and actions may be initiated at any level. Similarly, review and approval authority may be exercised at various levels depending on the nature of the action, available funding, and statutory authority. FEMA offices and administrations shall provide further guidance, commensurate with their programs and organization, for integration of environmental considerations into the decision-making process. The Regional Director shall:

(1) Consider all relevant environmental documents in evaluating proposals for Agency action;

(2) Make all relevant environmental documents, comments, and responses part of the record in formal rulemaking or adjudicatory proceedings;

(3) Ensure that all relevant environmental documents, comments and responses accompany the proposal through existing Agency review processes;

(4) Consider only those alternatives encompassed by the range of alternatives discussed in the relevant environmental documents when evaluating proposals for Agency action;

(5) Where an EIS has been prepared, consider the specific alternatives analyzed in the EIS when evaluating the proposal which is the subject of the EIS.

(b) *Record of decision*. In those cases requiring environmental impact statements, the Regional Director at the time of his/her decision, or if appropriate, his/her recommendation to Congress, shall prepare a concise public record of that decision. The record of decision is not intended to be an extensive, detailed document for the purpose of justifying the decision. Rather it is a concise document that sets forth the decision and describes the alternatives and relevant factors considered as specified in 40 CFR 1505.2. The record of decision will normally be less than three pages in length.

(c) *Mitigation*. Throughout the NEPA process, the Regional Director shall consider mitigating measures to avoid or minimize environmental harm and, in particular, harm to or within flood

plains and wetlands. Mitigation measures or programs will be identified in the environmental impact statement and made available to decision-makers. Mitigation and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the Regional Director.

(d) *Monitoring.* If a Regional Director determines that monitoring is applicable for established mitigation, a monitoring program will be adopted to assure the mitigation measures are accomplished. The Regional Director shall provide monitoring information, upon request, as specified in 40 CFR 1505.3. This does not, however, include standing or blanket requests for periodic reporting.

§ 10.13 Emergencies.

In the event of an emergency, the Regional Director may be required to take immediate action with significant environmental impact. The Regional Director shall notify the Environmental Officer of the emergency action at the earliest possible time so that the Environmental Officer may consult with the Council on Environmental Quality. In no event shall any Regional Director delay an emergency action necessary to the preservation of human life for the purpose of complying with the provision of this directive or the CEQ regulations.

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

§ 10.14 Flood plains and wetlands.

For any action taken by FEMA in a flood plain or wetland, the provisions of this part are supplemental to, and not instead of, the provisions of the FEMA regulation implementing Executive Order 11988, Flood Plain Management, and Executive Order 11990, Protection of Wetlands (44 CFR part 9).

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AUTHORITY: 31 U.S.C. 3701 *et seq.*

SOURCE: 45 FR 15930, Mar. 12, 1980, unless otherwise noted.

Subpart A—General

§ 11.1 General collection standards.

The general standards and procedures governing the collection, compromise, termination and referral to the Department of Justice of claims for money and property that are prescribed in the regulations issued jointly by the General Accounting Office and the Department of Justice pursuant to the Federal Claims Collection Act of 1966 (4 CFR part 101 *et seq.*), apply to the administrative claim collection activities of the Federal Emergency Management Agency (FEMA).

§ 11.2 Delegations of authority.

Any and all claims that arise under subchapter III of chapter 83, chapter 87 and chapter 88 of title 5, the United States Code, the Retired Federal Employees Health Benefits Act (74 Stat. 849), the Panama Canal Construction Annuity Act (58 Stat. 257), and the Lighthouse Service Widow's Annuity Act (64 Stat. 465) shall be referred to