

Department of the Interior Departmental Manual

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Series: Environmental Quality Programs

Part 520: Protection of the Natural Environment

Chapter 1: Floodplain Management and Wetlands Protection Policy and Responsibilities

Originating Office: Office of Environmental Policy and Compliance

520 DM 1

1.1 **Purpose.** This Chapter provides the Department of the Interior (Department) policy and responsibilities for floodplain management and wetlands protection. The program requirements are provided in Part 520 of the Departmental Manual in Chapter 2 (520 DM 2).

1.2 **Scope.** The policy in this chapter applies to all Bureaus/Offices when conducting the following actions:

- A. Acquiring, managing, and disposing of Federal lands and facilities.
- B. Providing Federally undertaken, financed, or assisted construction and improvements.
- C. Conducting Federal activities and programs affecting land use, including but not limited to, water and related land resources planning, regulating, and licensing activities.

1.3 **Authorities.**

A. Executive Order 11988 - Floodplain Management (May 24, 1977) revoked and replaced Executive Order 11296 (August 10, 1966). It was issued in furtherance of the National Flood Insurance Act of 1968, as amended, the Flood Disaster Protection Act of 1973, and the National Environmental Policy Act of 1969 (NEPA). It directs Federal agencies to evaluate actions involving Federal land, facility transfer, and management activities; constructing or financing improvements; land use and licensing activities to avoid or minimize floodplain impacts; and provide public notice and review when proposing floodplain impacts.

B. Executive Order 11990 - Protection of Wetlands (May 24, 1977) directs agencies to conduct evaluations of actions involving Federal land, facility transfer and management activities; constructing or financing improvements; land use and licensing activities to avoid or minimize wetland impacts; and provide public notice and review when proposing wetland impacts.

C. Executive Order 13690 - Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (January 30, 2015) amended Executive Order 11988, Floodplain Management (May 24, 1977). It sets a national policy to improve preparedness and resilience against flooding and provides for a Federal Flood Risk Management Standard (FFRMS) for Federally funded projects, such as actions where Federal funds are used for new construction or substantial improvement or to address substantial damage to structures and facilities. Additionally, it requires using natural systems, ecosystem processes, and nature-based approaches, where possible, in the development of alternatives for all actions and imposing a higher level of resilience for critical actions, which are any activity for which even a slight chance of flooding is too great.

D. Executive Order 14030 – Climate-Related Financial Risk (May 20, 2021) reinstated Executive Order 13690 and reestablished the Federal Flood Risk Management Standard.

1.4 Policy. It is the policy of the Department to avoid, reduce adverse impacts on, and restore floodplains and wetlands, when practicable, while engaging the public in floodplain and wetland impact decisions in managing the Nation's natural and cultural resources, including its streams, wetlands, floodplains, and cultural resources therein. Bureaus/Offices must:

A. Adhere to the methods, standards, and definitions of terms as set forth in the Water Resources Council (WRC) Guidelines for determining risks and hazards of flood loss; minimizing the impact on health, safety, and welfare; and evaluating alternatives; and

B. To the extent permitted by law:

(1) Exercise leadership and take action to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of wetlands and floodplains.

(2) Avoid the direct or indirect support of development within wetlands or floodplains whenever there is a practicable alternative, including avoiding investments in real property occupying floodplains that would increase the likelihood of losses caused by flooding.

(3) Reduce the risk of flood loss and minimize the impact of floods on human health, safety, and welfare.

(4) Restore and preserve the natural and beneficial values and ecological services provided by floodplains and wetlands; and where possible use natural systems, ecosystem processes and nature-based approaches when developing alternatives for consideration to avoid adverse effects and incompatible development in floodplains and wetlands.

(5) Develop a meaningful public involvement process in the floodplain management decision making process, including through integration with any applicable environmental review process;

(6) Incorporate the WRC Unified National Program for Floodplain Management into relevant Departmental programs; and

(7) To the maximum extent practicable, use the climate-informed science approach that uses the best available, actionable hydrologic and hydraulic data and methods that integrate current and future changes in flooding based on climate science when determining the boundary of the floodplain.

1.5 Responsibilities.

A. Assistant Secretary – Policy, Management and Budget (AS – PMB).

(1) Ensuring that the Secretary's responsibilities under the Executive Orders are carried out.

(2) Mediating conflicting interests between or among Assistant Secretaries and resolving differences between the parties or referring the conflicting views to the Secretary with a recommended course of action.

B. Director, Office of Environmental Policy and Compliance (PEP). Assisting the AS – PMB in carrying out their responsibilities. This includes:

(1) Preparing program directives and other necessary guidance as required.

(2) Reviewing and concurring on Bureau/Office procedures for compliance with the Executive Orders.

(3) Preparing reports for submission to the WRC and/or the Council on Environmental Quality.

(4) Coordinating any exceptions to establishing a FFRMS floodplain according to the WRC Guidelines for national security and as applicable for emergency actions. Assisting Program Assistant Secretaries, or their designee, and Regional, Field, or Area Offices, or Responsible Officials (i.e., authorized officials) in making exception determinations. The exception responsibilities include:

(a) Assisting the authorized official in exception determinations for:

(i) Bureau/Office actions that are in the interest of national security or involve a mission-critical requirement related to a national security interest, and

(ii) FFRMS floodplain applications to a Federal facility or structure that are demonstrably inappropriate.

(b) Determining exceptions in emergency actions when PEP is involved under Departmental NEPA implementing regulations at 43 CFR 46.150 Emergency responses.

(c) Directing that the floodplain for excepted actions is the area of land subject to the base flood (100-year flood or 1-percent annual exceedance probability event).

C. Program Assistant Secretaries.

(1) Ensuring that their respective Bureaus/Offices comply with the requirements in the Executive Orders and the policy in this Chapter.

(2) Reviewing and concurring with the floodplain and wetland procedures of their Bureaus/Offices prior to submission to the Director, PEP for review.

(3) Providing exceptions to a Bureau/Office from application of a FFRMS floodplain. For these excepted actions, directing that the floodplain must be the area of land subject to the base flood (100-year or 1-percent annual exceedance probability event).

(4) Resolving any conflicts among their Bureaus/Offices.

(5) Ensuring that program plans and budget requests reflect consideration of flood hazards and floodplain and wetland management.

D. Heads of Bureaus/Offices. Reviewing their programs for compliance with the Executive Orders and policies and requirements in 520 DM 1 and 2, including the following:

(1) Planning and designing new Federal facilities.

(2) Modifying existing Federal facilities or constructing new ones.

(3) Acquiring, managing, and disposing of Federal lands and facilities.

(4) Carrying out and influencing programs involving land use and water planning and development, including regulating and licensing activities.

(5) Administering construction, improvement, and land acquisition programs supported or assisted by Federal grants, loans or other forms of financial assistance.

(6) Assuring compliance with public information and other procedural requirements of the Executive Orders.

E. Heads of Regional, Field, or Area Offices, or Responsible Officials.

(1) Developing procedures for determining, for the activities listed above and any other covered activities, the degree of risk present, whether an action is a critical action, and whether or not an alternative location or other course of action is practicable. The procedures

will indicate what steps to take to minimize harm to facilities, floodplains, and wetland resources where an alternative location or other course of action to avoid such harms is not practicable.

(2) Excepting a Bureau/Office action from establishing a FFRMS floodplain where the action is an emergency action or involves a mission-critical requirement related to an emergency when the responsible official has that authority under Departmental NEPA implementing regulations at 43 CFR 46.150 Emergency responses. For these excepted actions, directing that the floodplain must be the area of land subject to the base flood (100-year or 1-percent annual exceedance probability event).

(3) Furnishing a statement with all requests for new authorizations or appropriations (for proposals to be located in floodplains and wetlands) that the proposal complies with the Executive Orders.

(4) Informing private parties and State, Tribal, territorial, and local governments participating in regulatory, financial, and land transactions of the hazards and impacts of locating structures in floodplains and wetlands. Appropriate information should include the levels of expected flooding, location in a riverine or coastal high hazard area, existence of multiple flooding sources or combinations of hazards, and other important information for the safety of potential floodplain occupants and development.

(5) Being the responsible official for all statements of findings and public explanation (See 520 DM 2.6 B(7), 520 DM 2.7, and WRC Guidelines, Part II, Step 7).