

## Department of the Interior Departmental Manual

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**Effective Date:** 09/14/2022

**Series:** Environmental Quality Programs

**Part 520:** Protection of the Natural Environment

**Chapter 2:** Floodplain Management and Wetlands Protection Program Requirements

**Originating Office:** Office of Environmental Policy and Compliance

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### 520 DM 2

**2.1 Purpose.** This Chapter sets forth the program requirements and procedures to be followed by Department of the Interior (Department) Bureaus/Offices in implementing Part 520 of the Departmental Manual, Chapter 1 (520 DM 1) Floodplain Management and Wetlands Protection Policy.

**2.2 Authorities.** The following authorities are an integral part of the policy and requirements in this Chapter.

- A. Executive Order 14030 – Climate-Related Financial Risk, issued May 20, 2021.
- B. Executive Order 13690 – Establishing a Federal Flood Risk Management Standard [FFRMS] and a Process for Further Soliciting and Considering Stakeholder Input, issued January 30, 2015.
- B. Executive Order 11988, Floodplain Management, issued May 24, 1977.
- C. Executive Order 11990, Protection of Wetlands, issued May 24, 1977.
- D. Unified National Program for Floodplain Management, Water Resources Council (WRC).
- E. Guidelines for Implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, WRC October 22, 2015 (80 FR 64008)(“WRC Guidelines” for the purposes of this document).
- F. Executive Order 11514, as amended, Protection and Enhancement of Environmental Quality, issued March 5, 1970.

09/14/22 #5115

Replaces 04/28/20 #5018

G. Executive Order 12372, as amended, Intergovernmental Review of Federal Programs, issued July 14, 1982.

2.3 **Definitions.** In addition to the definitions provided below, a glossary of definitions is provided in the WRC Guidelines for Executive Order 11988 and Executive Order 13690.

A. Critical Action. Any activity for which even a slight chance of flooding would be too great.

B. Federally Funded Projects. Federally funded projects, for the purpose of the FFRMS, are a subset of actions, as described above and in Executive Order 13690, and include projects where Federal funds are used for new construction, substantial improvement, or to address substantial damage to structures and facilities.

C. Floodplain. The lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands. When evaluating the potential effects of the proposed actions covered by this Chapter, the floodplain will be established based on the type of action and whether it is a critical action. For actions that are not critical actions or Federally funded projects, the minimum standard is the 100-year or 1-percent annual exceedance probability event elevation and corresponding horizontal floodplain. For critical actions, the 500-year or 0.2-percent annual exceedance probability event elevation and corresponding horizontal floodplain should be used. For Federally funded projects, and any other action a Bureau/Office determines warrants it, the floodplain is the FFRMS floodplain. To the maximum extent practicable, the FFRMS floodplain is established using the Climate-informed Science Approach (CISA) using paragraph (1) below. If using CISA is not practicable, Bureaus/Offices may use one of the other approaches in paragraphs (2), (3), or (4) below, unless an exception is made under 520 DM 1.5 B(4), 1.5 C(3), or E(2):

(1) The elevation and flood hazard area that results from using a climate-informed science approach that uses the best-available, actionable hydrologic and hydraulic data, and methods that integrate current and future changes in flooding. This approach also includes an emphasis on whether the action is a critical action as one of the factors to be considered when conducting the analysis (Climate-informed Science Approach).

(2) The elevation and flood hazard area that results from using the freeboard value, reached by adding an additional 2 feet to the base flood elevation (100-year or 1-percent annual exceedance probability event elevation) for non-critical actions and from adding an additional 3 feet to the base flood elevation (100-year or 1-percent annual exceedance probability event elevation) for critical actions (Freeboard Value Approach).

(3) The area subject to flooding by a 0.2 percent annual exceedance probability event (500-year flood elevation); or

(4) The elevation and flood hazard area that results from using any other method identified in an update to the FFRMS.

## 2.4 Interrelationships.

A. General. The Department recognizes that the requirements of the Executive Orders have basic interrelationships with and condition the implementation of existing Federal actions and guidance documents. Therefore, to the extent possible, the Department will integrate flood risks and hazards, floodplain management and wetland protection requirements into its programs and will utilize existing consultation, planning, environmental review, and decision processes.

B. Water Resources Council Guidelines. The current WRC Guidelines implement and interpret Executive Order 11988 (Floodplain Management) and Executive Order 13690 [Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (January 30, 2015)] to aid in conducting the floodplain management planning and decision processes. Where it is deemed appropriate for the Department to diverge from the WRC Guidelines, 520 DM 1 and 2 will supersede the WRC document. In general, the substantive requirements of Executive Order 11988 and Executive Order 13690, as interpreted and explained in the WRC Guidelines, are adopted by the Department, consistent with 520 DM 1. The Bureaus/Offices will adhere to the methods, standards, and definitions of terms as set forth in the WRC Guidelines for determining risks and hazards of flood loss; minimization of impact on health, safety, and welfare; and evaluation of alternatives.

C. Protection of Wetlands. Executive Order 11990 requires Federal agencies to avoid destruction or modification of wetlands whenever there is a practicable alternative. Wetlands are commonly found within floodplains, and even when not located within floodplains, wetlands often reduce flood severity. Thus, Bureaus/Offices need to, in general, conduct activities regarding wetlands in accordance with 520 DM 1 and 2.

D. Environmental Compliance. For actions located in floodplains and wetlands, the requirements of the Executive Orders supplement those of existing environmental review and compliance laws, regulations, and policies, including the National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA). Federal actions in floodplains and wetlands generally trigger the need to comply with NEPA and the preparation of an environmental document. To provide ease and economy of documentation, and the opportunity for public review, the Executive Order procedures and requirements will be integrated with the NEPA, NHPA, and other compliance procedures and documents for each such action, as appropriate. If public review is not provided through the NEPA process, another opportunity for public review is necessary.

E. Water Resources and Land Related Resources Development. For actions related to the Federal water resource infrastructure investments as defined in 707 DM 1, the principles and requirements for conducting water and related land resources implementation studies supplement those of NEPA. When the analysis required in 707 DM 1 and related guidance provide for ease and economy of documentation by conducting it within the NEPA process, then it will be included in the NEPA compliance documents for each such action. Otherwise, a separate process is necessary.

F. Federal Facility Investments. For actions related to Federal facility plans to increase adaptation and resilience to impacts of climate change as addressed by Executive Order 14008 (Tackling the Climate Crisis at Home and Abroad), Executive Order 14057 (Catalyzing Clean Energy Industries and Jobs through Federal Sustainability), Executive Order 13653 (Preparing the United States for the Impacts of Climate Change), and 523 DM 1 Climate Change Policy; the principles and requirements for constructing, rehabilitating, or modernizing Federal facilities are consistent and support the requirements in 520 DM 1 and 2. Consideration of these Federal facility investment principles and requirements, along with Executive Orders 11988 and 13690, should be included in the related NEPA analysis for each action.

G. Interagency Review. Because of its broad responsibility for the protection, maintenance, and enhancement of the Nation's natural resources, the Department maintains an effective review function that monitors other agency activities in floodplains and wetlands. Under the auspices of various laws, regulations, and interagency agreements, the Department has responsibility to comment on a variety of proposals and to suggest solutions for many problems that impact floodplain and wetland resources.

H. Multi-Agency/Bureau/Office Actions. Where multiple Federal Agencies/Bureaus/Offices are involved in an action, coordination must start early to ensure a consistent approach to the floodplain determination and the other aspects of implementation. This is especially important for Federally funded projects where there are multiple options for determining the floodplain for a given action.

## **2.5 Requirements for Developing Bureau/Office Procedures.**

### **A. General.**

(1) Bureaus/Offices may prepare new or update existing separate Bureau/Office-specific procedures for complying with the policy and program requirements in 520 DM 1 and 2 and the Executive Orders. Initially, Bureau/Office procedures will be prepared or updated in consultation with the Assistant Secretary – Policy, Management and Budget (AS – PMB) and the appropriate Program Assistant Secretary. Once approved by the AS – PMB, periodic minor revisions can be made without extensive reconsultation. Any major amendments, however, will require concurrence of the appropriate Program Assistant Secretary and approval by the AS – PMB.

(2) Office of the Secretary of the Interior (Secretary). Offices reporting to the Secretary or the AS –PMB are not required to prepare separate specific procedures, but must comply with the Executive Orders and these procedures. The Office of Environmental Policy and Compliance (PEP) is available to provide guidance for any specific compliance activities.

B. Specific.

(1) Procedures must be prepared or updated in accordance with the requirements in this Chapter, its references and existing policies. If the procedures vary substantively from the WRC Guidelines or this Chapter, they must be published in the Federal Register.

(2) Procedures initially prepared in accordance with the WRC Guidelines for Implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input must be circulated for review to the Council on Environmental Quality (CEQ), WRC, and the Federal Emergency Management Agency (FEMA).

(3) Minor procedural amendments to procedures do not require extensive reconsultation; however, substantive amendments must be circulated as required in 520 DM 2.5 B(2).

(4) Procedures must be prepared in the most logical format. The following two formats are recommended:

(a) Single Procedure Document. This format presents Bureau/Office procedures in one document and explains their application to all affected programs.

(b) Dispersed Procedures. This format presents a summary of and references to the various separate procedures of the Bureau/Office programs. With this approach, detailed procedures are issued separately as additions or revisions to existing program guidance.

(5) Procedures, when published in the Federal Register, must also include a listing of any handbooks, manuals, or other guidelines which will be modified, the schedule for completion of the modification, and how and where copies can be obtained for review.

C. Criteria for Evaluation. The following criteria will be used by the AS – PMB and Program Assistant Secretaries to evaluate all procedures prepared for compliance with this Chapter. The procedures must provide for:

(1) Leadership with respect to natural and beneficial functions and values of floodplains and wetlands.

(2) Utilization of the principles of the WRC Unified National Program for Floodplain Management and WRC Guidelines for Implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input.

(3) A systematic review of existing procedures to involve protection and restoration of natural functions and values, and a sound policy to apply floodplain and wetland principles in all stages of planning, implementation, monitoring and evaluation of Bureau and Office activities.

(4) Avoidance of long- and short-term adverse impacts associated with the occupancy and modification of floodplains and wetlands, especially to natural and cultural resources.

(5) Avoidance of direct or indirect support of floodplain and wetland development whenever there is a practical alternative.

(6) Reduction of flood losses, including to real property and other investments.

(7) Minimization of flood impacts on human health, safety, and welfare.

(8) Development of an integrated process to involve the public in the floodplain and wetland decision making process, including through integration with any applicable environmental review process, including NEPA and NHPA, where appropriate.

(9) Technical consultation with WRC, CEQ, FEMA, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, and other institutions with expertise in the natural and beneficial values of floodplains and wetlands.

(10) Parameters for when use of CISA, the freeboard value approach, or the 0.2 percent annual exceedance probability event for determining the boundary of the floodplain for the FFRMS is most appropriate. This may include establishing categories of actions for which using a certain approach for determining the FFRMS is recommended, as appropriate.

(11) Guidelines to clarify when work meets the threshold of substantial improvement or repairs to substantial damage, such that application of the FFRMS is required.

(12) Assurance that planning programs and budget requests reflect consideration of natural and beneficial functions and values of floodplains and wetlands; and

(13) Documentation of specific analysis of actions and for any reporting purposes under the Executive Orders.

## 2.6 Requirements for Implementing Bureau/Office Procedures.

A. General. Procedures to be followed in applying Executive Order 11988 and Executive Order 13690 to all actions are set forth in Part II of the WRC Guidelines. The Department has adopted this process. Bureaus/Offices may only deviate from the process when their missions and programs are better served by modified procedures. When the affected floodplain includes wetlands, application of these procedures must also reflect wetlands considerations and must demonstrate how the wetlands will be protected. When wetlands alone are affected, Executive Order 11990 applies separately. The same procedural steps identified below for floodplains, but applied to wetlands, will comply with Executive Order 11990. Factors to consider when assessing the effects of a proposed action on the survival and quality (for example, condition and capacity to provide ecosystem services) of wetlands include those identified in Executive Order 11990 Section 5.

B. Procedures. When an action is proposed in wetlands or a floodplain, the following procedural steps (summarized from Part II of the WRC Guidelines) must be taken and integrated into the planning process. After identifying the specific need, function, and situation for the action and determining whether it is a critical action, Bureaus/Offices must follow the eight-step decision-making process summarized below:

(1) Determine whether a proposed action is located in a floodplain. This requirement is discussed in Step 1 of the WRC Guidelines and should use CISA to the extent practicable for determining the boundary of the floodplain for actions subject to a FFRMS. If the proposed action is not in a floodplain, proceed to Step 4 below.

(2) Identify the overall audience for public notice and involvement, the vehicles for public participation and the purpose and timing of public notice actions, including through integration with any applicable environmental review processes. This requirement is discussed in Step 2 of the WRC Guidelines.

(3) Identify and evaluate practicable alternative sites or actions, including taking no action. Evaluate natural systems, ecosystem processes, and nature-based approaches, where possible, in the development of alternatives for all actions and impose a higher level of resilience for critical actions. This requirement is discussed in Step 3 of the WRC Guidelines.

(4) Identify direct or indirect impacts associated with the occupancy and modification of the floodplain, and any associated wetlands; direct or indirect support of floodplain development; and how they will be evaluated. This requirement is discussed in Step 4 of the WRC Guidelines. If the proposed action is outside the floodplain, has no identifiable impacts and does not support floodplain development, proceed to Step 8 below.

(5) Identify measures to minimize harm to lives, property, and natural and beneficial floodplain and wetland values. This requirement is discussed in Step 5 of the WRC Guidelines.

(6) Re-evaluate the proposed alternatives considering the minimization measures and determine if they are still practicable at a floodplain site in light of the exposure to flood risk and ensuing disruption of floodplain, and potentially wetland, values. This requirement is discussed in Step 6 of the WRC Guidelines.

(7) Provide a written statement of findings and public explanation. Integrate this process into existing procedures and documents, including environmental review procedures and documents, such as those under NEPA and NHPA. This requirement is discussed in Step 7 of the WRC Guidelines.

(8) Assure implementation of the proposed action is in accordance with the Executive Order 11988, as amended. This requirement is discussed in Step 8 of the WRC Guidelines.

C. Documentation and Circulation.

(1) Case-by-case documentation is required for all actions covered by the Executive Orders. Project files will be kept current and reflect compliance with the decision making process outlined in the WRC Guidelines and this Chapter.

(2) Circulation of information and data on casework is necessary to satisfy Sections 2(a)(2), (3), and (4) of Executive Order 11988, as amended. Section 2(a)(2) requires a notice of actions that would be located in a floodplain. Section 2(a)(3) requires that, for programs subject to Office of Management and Budget Circular A-95, the notice contain certain content and ensures compliance with Executive Order 12372 reporting procedures. Section 2(a)(4) calls for early public review whether or not the action will require preparation of an environmental impact statement. This early public review is discussed in Step 2 of the WRC Guidelines.

(3) Steps 2 and 7 of Part II of the WRC Guidelines give thorough information on how to comply with the public notice requirements of Executive Order 11988, as amended. A notice will be published in the Federal Register when the proposed action has National significance or impact. For actions with lesser significance or geographic extent, the Federal Register may be used, but Bureaus/Offices must also use other public information methods, such as news releases, newsletters, and public meetings to inform the interested public.

(4) To ensure interagency coordination, notices, NEPA documents, and decision statements on proposals in floodplains and wetlands are to be distributed to the following agencies:

(a) Environmental Protection Agency (EPA).

(b) Federal Emergency Management Agency (FEMA).



- (c) U.S. Fish and Wildlife Service (FWS).
- (d) U.S. Geological Survey (USGS).
- (e) Bureau of Reclamation (BOR).
- (f) U.S. Army Corps of Engineers (USACE).
- (g) Natural Resources Conservation Service (NRCS).
- (h) State Water Resources Agencies, as applicable (if not covered by the Executive Order 12372 process).

**2.7 Statement of Findings.** The WRC Guidelines in Part II, Step 7, describe the post-decisional process for the statement of findings and explanation to the public in the event that re-evaluation results in locating the project in the floodplain. All procedures must include the process in its pre-decisional activities, including the re-evaluation of alternatives (Step 6). The Bureaus/Offices should work the key parts of the WRC Guidelines into their environmental review process so that floodplain and wetlands considerations remain pre-decisional. A proposed statement of findings would then be attached to a finding of no significant impact. If the final decision differs significantly from the proposed action, then Bureaus/Offices are required to issue a separate statement of findings in accordance with Step 7.

**2.8 Intra-Departmental Conflict Resolutions.** When two or more Bureaus/Offices hold conflicting views on a particular project, the following steps will be taken as soon as the conflict is known to not achieve a satisfactory solution:

- A. A meeting will be held between field-level officials of the Bureaus/Offices involved to resolve the matter or to clarify their differences.
- B. If there is no resolution, a meeting will be held with the PEP Regional Environmental Officer (REO) and regional officials of the involved Bureaus/Offices to find a solution or refer to a higher authority.
- C. If referred to a higher authority, each involved Bureau/Office and the REO will prepare and forward to headquarters a complete case report that provides background, analysis, acceptable alternative positions, conclusions, and recommendations. Supporting material (maps, associated reports, position papers, etc.) must accompany the case report. If the supporting materials are too voluminous, they should be summarized in the case report and made available to a higher authority upon request.
- D. If the opposing views are held within a program area under one Assistant Secretary, that Assistant Secretary will review the issue, document the findings, and decide the issue.

E. If the opposing views are held between two or more programs under different Assistant Secretaries, each Assistant Secretary will review the case report(s) and forward them with their separate findings and recommendations to the AS – PMB.

F. The AS – PMB will decide any disputed issue forwarded, or refer it to the Secretary in those few instances where the Secretary's personal decision may be necessary.