**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 Procedures

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

**520 DM 1**

1.1 **Purpose**. This Chapter sets forth the procedures to be followed in implementing Executive Order 11988, Floodplain Management (May 24, 1977) and Executive Order 11990, Protection of Wetlands (May 24, 1977), which are hereinafter referred to as the Orders. Whenever only one Order is referred to it will be identified by its Executive Order number (e.g., EO 11988).

1.2 **Policy**. The Department has a general mandate and broad responsibility for the management of the Nation's natural resources, including its streams, wetlands and floodplains. The Department's policy is to:

A. 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;

B. Avoid the direct or indirect support of wetland or floodplain development whenever there is a practicable alternative;

C. Reduce the risk of flood loss and minimize the impact of floods on human health, safety and welfare;

D. Restore and preserve the natural and beneficial values served by floodplains and wetlands;

E. Develop an integrated process to involve the public in the floodplain management decision making process;

F. Incorporate the Unified National Program for Floodplain Management into relevant Departmental programs.

1.3 **Authority**.

A. EO 11988, which revoked and replaced EO 11296 (August 10, 1966), 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). Section 2(d) of EO 11988 requires issuance of new or amended agency procedures.

B. EO 11990 was issued in furtherance of the NEPA, and Section 6 of EO 11990 requires issuance of new or amended procedures.

1.4 **References**. The following references are made an integral part of this Chapter.

A. EO 11988, Floodplain Management;

B. EO 11990, Protection of Wetlands;

C. Unified National Program for Floodplain Management, Water Resources Council (WRC);

D. Floodplain Management Guidelines, WRC, February 10, 1978 (43 FR 6030);

E. EO 11514, as amended, Protection and Enhancement of Environmental Quality;

F. EO 12372, as amended, Intergovernmental Review of Federal Programs.

1.5 **Interrelationships**.

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

B. Water Resources Council (WRC) Guidelines. The WRC Guidelines for implementing EO 11988 are the basic guidance for interpreting that Executive Order and conducting the floodplain management planning and decision process. Where it is deemed appropriate for the Department to diverge from the WRC Guidelines, this Chapter will supersede that document. In general, the substantive requirements of EO 11988 as interpreted and explained in the Executive Summary of the WRC Guidelines are adopted by this Department. This Department 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. EO 11990 requires Federal agencies to avoid destruction or modification of wetlands whenever there is a practicable alternative. Since almost all wetlands are found in floodplains, the Department will, in general, conduct its activities regarding wetlands in accordance with this Chapter.

D. NEPA Compliance. For actions located in floodplains and wetlands, the requirements of the Executive Orders supplement those of NEPA. Since most Federal actions in floodplains and wetlands will impact these resources, an environmental document (environmental statement or assessment) will probably be required to comply with NEPA. For ease and economy of documentation, the Executive Orders= requirements will be included in the NEPA compliance documents for each such action.

E. 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 which monitors other agency activities in floodplains and wetlands. Under the auspices of various laws, regulations and interagency agreements, the Department suggests methods of study and solutions for many problems which impact floodplain and wetland resources.

1.6 **Responsibilities**.

A. Assistant SecretaryBPolicy, Management and Budget (PMB). The Assistant Secretary--PMB will:

(1) Have overall responsibility for ensuring that the Secretary's responsibilities under the Executive Orders are carried out. In performing this duty, the Assistant Secretary--PMB will prepare program directives and other necessary guidance as required.

(2) Approve bureau and office procedures for complying with the Executive Orders.

(3) In consultation with Program Assistant Secretaries, prepare any required reports to the Water Resources Council and/or the Council on Environmental Quality.

(4) Mediate conflicting interests between two or more Assistant Secretaries, and either resolve differences between the parties, or refer the conflicting views to the Secretary with a recommended course of action.

B. Program Assistant Secretaries. The Program Assistant Secretaries will:

(1) Maintain general supervision of bureaus and offices under their jurisdiction in order to ensure compliance with the Executive Orders and this Chapter.

(2) Review and concur with the floodplain and wetland procedures of their bureaus and offices prior to forwarding them to the Assistant Secretary--PMB for approval.

(3) Be responsible for resolving any conflicts among the bureaus and offices under their individual jurisdiction.

C. Heads of Bureaus and Offices. The heads of bureaus and offices will:

(1) Review their programs for compliance with the Executive Orders and, at a minimum, apply the Executive Orders to the following types of activities:

(a) Planning and designing new Federal facilities;

(b) Modifying existing Federal facilities or constructing new ones;

(c) Acquiring, managing and disposing of Federal lands and facilities;

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

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

(2) Develop procedures for determining, for the activities listed above and any other covered activities, the degree of risk present, and whether or not an alternative location or other course of action is practicable. If not practicable, the procedures will indicate what steps to take to minimize harm to facilities, to the floodplain and to wetland resources.

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

(4) Be responsible for assuring compliance with the public information and other procedural requirements of the Executive Orders.

(5) Inform private parties and State 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.

(6) Be the responsible official for all statements of findings (WRC Guidelines, Part II, Step 7).

1.7 **Procedures for Bureau and Office Guidance**.

A. General.

(1) Bureaus and offices are required to prepare or update written procedures for complying with the Executive Orders. Initially, bureau and office procedures will be prepared or updated in consultation with the Assistant Secretary--PMB and the appropriate Program Assistant Secretary. Once approved by the Assistant Secretary--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 Assistant Secretary--PMB.

(2) Secretarial Offices do not have to prepare separate procedures, but will comply with the Executive Orders and these procedures. The Office of Environmental Policy and Compliance is available to provide guidance for any specific compliance activities.

B. Specific.

(l) Procedures will be prepared in accordance with this Chapter, its references and existing policies and will be published in the Federal Register.

(2) Procedures initially prepared in accordance with this Chapter will be circulated for review to the Council on Environmental Quality (CEQ), Water Resources Council (WRC), Federal Emergency Management Agency (FEMA), Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (FWS) and Corps of Engineers (CE).

(3) Minor procedural amendments to procedures do not require extensive reconsultation; however, substantive amendments will be circulated as required in 520 DM 1.7B(2).

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

(a) Single Procedure Document. This format would present bureau and office procedures in one document and explain its application to all affected programs.

(b) Dispersed Procedures. This format would present a summary of and reference the various separate procedures of the bureau and office programs. With this approach detailed procedures would be issued separately as additions or revisions to existing program guidance.

(5) Procedures, when published in the Federal Register, will also provide 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 Assistant Secretary--PMB and the 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 values of floodplains and wetlands;

(2) Utilization of the principles of the "Unified National Program for Floodplain Management";

(3) A systematic review of existing procedures to involve protection and restoration of values and a sound policy to apply floodplain and wetlands 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;

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

(6) Reduction of flood losses;

(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 wetlands decision making process.

(9) Technical consultation with WRC, CEQ, FEMA, FWS, and CE and other institutions with expertise in the natural and beneficial values of floodplains and wetlands;

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

(11) Documentation of specific analysis of actions and examples of responses to EO 11988 for reporting purposes under that Executive Order.

1.8 **Procedures for Bureau and Office Activities**.

A. General. Procedures to be followed in applying EO 11988 to all activities are set forth in Part II of the WRC Guidelines. The Department has adopted this process and will deviate from it only when Departmental missions and programs will be more adequately served by modified procedures. When the affected floodplain includes wetlands, the application of these procedures will also reflect the wetlands considerations and will demonstrate how the wetlands will be protected.

B. Procedures. When an action is proposed in wetlands or a floodplain, the following procedural steps (summarized from the WRC Guidelines) will be addressed and integrated into the planning process.

(l) Identification of whether a proposed action is located in the 100-year floodplain (500-year floodplain for Acritical actions@) and assessment of the type of hazard involved. This requirement is discussed in Step 1 of the WRC Guidelines.

(2) Identification of the overall audience to be reached for public notice and involvement, the vehicles for public participation and the purpose and timing of public notice actions. This requirement is discussed in Step 2 of the WRC Guidelines.

(3) Identification of practicable, alternative sites or actions and how such alternatives will be reviewed and evaluated. This requirement is discussed in Step 3 of the WRC Guidelines.

(4) Identification of direct or indirect impacts associated with the occupancy and modification of the floodplain; direct and indirect support of floodplain development; and how they will be reviewed and evaluated. This requirement is discussed in Step 4 of the WRC Guidelines.

(5) Identification of minimization of harm to lives and property, and to natural and beneficial floodplain values; how this will be achieved; and what restoration and preservation of the natural and beneficial values will be made. These requirements are discussed in Step 5 of the WRC Guidelines.

(6) Re-evaluation of proposed actions to determine if they are still practicable at a floodplain site in light of the exposure to flood risk and ensuing disruption of floodplain values. This requirement is discussed in Step 6 of the WRC Guidelines.

(7) Identification of the contents of the written statement of findings and public explanation, and appropriate integration of this process into existing procedures and documents. This requirement is discussed in Step 7 of the WRC Guidelines.

(8) Assurance that the actions are implemented according to the requirements of EO 11988. This requirement is discussed in Step 8 of the WRC Guidelines.

C. Documentation and Circulation.

(l) 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.

(2) Circulation of information and data on casework is necessary to satisfy Sections 2(a)(2), (3) and (4) of EO 11988. Section 2(a)(2) is a general notice of actions to be taken. Section 2(a)(3) assures compliance with EO 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.

(3) Steps 2 and 7, Part II of the WRC Guidelines give thorough information for compliance with the public notice requirements of EO 11988. A notice will be published in the Federal Register when the proposed action has national significance or impact. On actions of lesser geographic coverage, the Federal Register may be used, but bureaus and offices will also use other public information methods, such as news releases, newsletters, and public meetings to inform the interested public.

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

(a) Environmental Protection Agency (EPA)

(b) Federal Emergency Management Agency (FEMA)

(c) U.S. Fish and Wildlife Service (FWS)

(d) Geological Survey (WGS)

(e) Bureau of Reclamation (WBR)

(f) Corps of Engineers (CE)

(g) Natural Resources Conservation Service (NRCS)

(h) Applicable State Water Resources Agencies (if not covered by the EO 12372 process)

1.9 **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 will include the process in its pre-decisional activities including the re-evaluation of alternatives (Step 6). Bureaus and offices should work the key parts of the WRC Guidelines into their NEPA 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 and offices are required to issue a separate statement of findings in accordance with Step 7.

1.10 **Intra-Departmental Conflict Resolutions**. When two or more bureaus and offices of the Department hold conflicting views on a particular project, the following steps will be taken to achieve a satisfactory solution:

A. A meeting will be held between field-level officials of the bureaus and offices involved to resolve the matter or to clarify their differences.

B. If there is no resolution, a meeting will be held with the Regional Environmental Officer (REO) of the Office of Environmental Policy and Compliance and regional officials of the involved bureaus and offices to find a solution or refer to higher authority.

C. If referred to a higher authority, each involved bureau and office and the REO will prepare and forward to headquarters a complete case report which provides background, analysis, acceptable alternative positions, conclusions and recommendations. Supporting material (maps, associated reports, position papers, etc.) will accompany the case report. If the supporting materials are too voluminous, they should be summarized in the case report and made available to higher authority upon request.

D. If the opposing views are upheld 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 Assistant Secretaries, each Assistant Secretary will review the case report(s) and forward them with their separate findings and recommendations to the Assistant Secretary--PMB.

F. The Assistant Secretary--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.

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