

Federal Emergency Management Agency

§ 9.18

§ 9.16 Guidance for applicants.

(a) The Agency shall encourage and provide adequate guidance to applicants for agency assistance to evaluate the effects of their plans and proposals in or affecting floodplains and wetlands.

(b) This shall be accomplished primarily through amendment of all Agency instructions to applicants, e.g., program handbooks, contracts, application and agreement forms, etc., and also through contact made by agency staff during the normal course of their activities, to fully inform prospective applicants of:

(1) The Agency's policy on floodplain management and wetlands protection as set out in § 9.2;

(2) The decision-making process to be used by the Agency in making the determination of whether to provide the required assistance as set out in § 9.6;

(3) The nature of the Orders' practicability analysis as set out in § 9.9;

(4) The nature of the Orders' mitigation responsibilities as set out in § 9.11;

(5) The nature of the Orders' public notice and involvement process as set out in §§ 9.8 and 9.12; and

(6) The supplemental requirements applicable to applications for the lease or other disposal of Agency owned properties set out in § 9.14.

(c) Guidance to applicants shall be provided where possible, prior to the time of application in order to minimize potential delays in process application due to failure of applicants to recognize and reflect the provisions of the Orders and this regulation.

§ 9.17 Instructions to applicants.

(a) *Purpose.* In accordance with Executive Orders 11988 and 11990, the Federal executive agencies must respond to a number of floodplain management and wetland protection responsibilities before carrying out any of their activities, including the provision of Federal financial and technical assistance. The purpose of this section is to put applicants for Agency assistance on notice concerning both the criteria that it is required to follow under the Orders, and applicants' responsibilities under this regulation.

(b) *Responsibilities of Applicants.* Based upon the guidance provided by the

Agency under § 9.16, that guidance included in the U.S. Water Resources Council's *Guidance for Implementing E.O. 11988*, and based upon the provisions of the Orders and this regulation, applicants for Agency assistance shall recognize and reflect in their application:

(1) The Agency's policy on floodplain management and wetlands protection as set out in § 9.2;

(2) The decision-making process to be used by the Agency in making the determination of whether to provide the requested assistance as set out in § 9.6;

(3) The nature of the Orders' practicability analysis as set out in § 9.9;

(4) The nature of the Orders' mitigation responsibilities as set out in § 9.11;

(5) The nature of the Orders' public and involvement process as set out in §§ 9.8 and 9.12; and

(6) The supplemental requirements for application for the lease or other disposal of Agency-owned properties, as set out in § 9.13.

(c) *Provision of supporting information.* Applicants for Agency assistance may be called upon to provide supporting information relative to the various responsibilities set out in paragraph (b) of this section as a prerequisite to the approval of their applications.

(d) *Approval of applications.* Applications for Agency assistance shall be reviewed for the recognition and reflection of the provisions of this regulation in addition to the Agency's existing approval criteria.

§ 9.18 Responsibilities.

(a) *Regional Directors' responsibilities.* Regional Directors shall, for all actions falling within their respective jurisdictions:

(1) Implement the requirements of the Orders and this regulation. Anywhere in §§ 9.2, 9.6 through 9.13, and 9.15 where a direction is given to the Agency, it is the responsibility of the Regional Director.

(2) Consult with the General Counsel regarding any question of interpretation concerning this regulation or the Orders.

(b) *Associate Directors' responsibilities.* Associate Directors/Administrators shall ensure that the offices/administrations under their jurisdiction:

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(1) Implement the requirements of the Orders and this regulation. When a decision of a Regional Director relating to disaster assistance is appealed, the Associate Director for State and Local Programs and Support may make determinations under these regulations on behalf of the Agency.

(2) Identify within ninety (90) days of the effective date of this regulation:

(i) The modifications that are necessary to make their existing floodplain management and wetlands protection procedures adequate to meet the directives of the Orders;

(ii) Which of these modifications should be made a part of this regulation;

(iii) Which of these modifications are to be included in program regulations other than this one; and

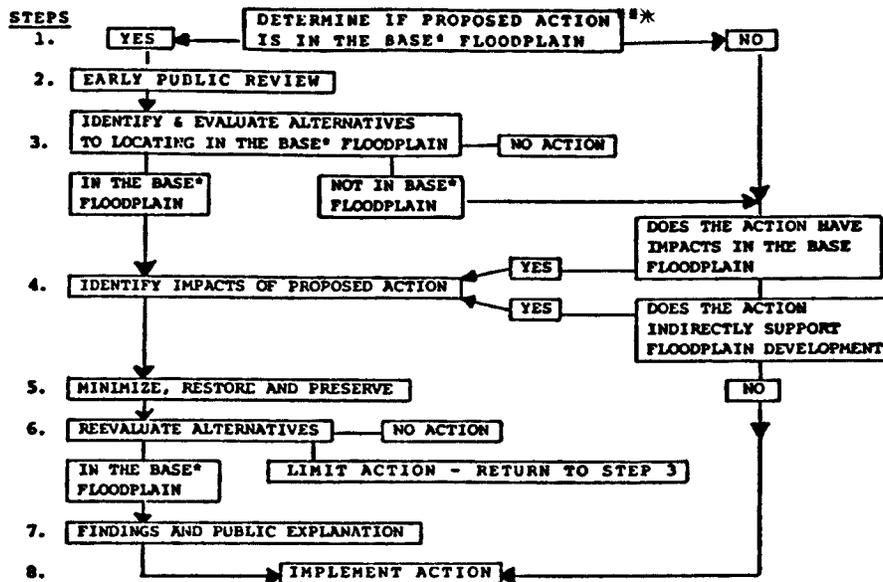
(iv) The steps being taken to prepare and implement these modifications.

(3) Are in full compliance with the Orders' provisions through the modification of their processes in accordance with paragraphs (b) (1) and (2) of this section.

(4) Prepare and submit to the Office of General Counsel reports to the Office of Management and Budget in accordance with section 2(b) of E.O. 11988 and section 3 of E.O. 11990. If a proposed action is to be located in a floodplain or wetland, any requests to the Office of Management and Budget for new authorizations or appropriations shall be accompanied by a report indicating whether the proposed action is in accord with the Orders and these regulations.

[45 FR 59526, Sept. 9, 1980, as amended at 49 FR 33879, Aug. 27, 1984]

APPENDIX A TO PART 9—DECISION-MAKING PROCESS FOR E.O. 11988



* FOR CRITICAL ACTIONS SUBSTITUTE "500 YEAR" FOR "BASE" AND FOR WETLANDS DELETE "BASE FLOODPLAIN" AND SUBSTITUTE " WETLANDS".

** FOR WETLANDS "ACTION" INCLUDES "NEW CONSTRUCTION" ONLY.

PART 10—ENVIRONMENTAL CONSIDERATIONS

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AUTHORITY: 42 U.S.C. 4321 *et seq.*; E.O. 11514 of March 7, 1970, 35 FR 4247, as amended by E.O. 11991 of March 24, 1977, 3 CFR, 1977 Comp., p. 123; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of March 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412, as amended.

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