

APPENDIX E
EO 11988/11990
Eight-Step Review
Decision Making Process

EO 11988/11990 Eight-Step Review Decision Making Process - Summary
Niagara Engine Company No. 6 Inc., Village of Schoharie, NY
Fire Station Directed Relocation
FEMA-4020-DR-NY PW 05101
March 2014

Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands) require Federal agencies “to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of the floodplains/wetlands and to avoid direct or indirect support of floodplains/wetland development wherever there is a practicable alternative.” FEMA’s implementing regulations are contained in 44 CFR Part 9, which includes an Eight-Step Decision Making Process for compliance with this part.

The Eight-Step Review Decision Making Process is applied to the Niagara Engine Company No. 6 Fire Station Directed Relocation Project. The Village of Schoharie, Schoharie County, New York experienced storm damage and flooding from Hurricane Irene that occurred August 26 to September 5, 2011. President Barack Obama declared the incident a major disaster on August 31, 2011. The project purpose is to provide a facility for the Niagara Engine Company No. 6 and to restore the functionality of the flood damaged facility that had been located at 133 Grand Street in the Village of Schoharie, while reducing future flood damage and floodplain impacts. Niagara Engine Company No. 6 meets the definition of a critical action (facility). According to 44 CFR 9.4, the minimum floodplain of concern for critical actions is the 500-year floodplain. The building was determined by FEMA to be eligible for replacement based upon the 50% rule (44 CFR 206.266(f) *Repair vs. Replacement*). The proposed project would demolish the damaged facility at 133 Grand Street in the Village of Schoharie, which has since been vacated, and would build a new facility at a new site on two nearby parcels, 114 Fort Road and 118 Fort Road, in the Village of Schoharie. A former tractor dealership building at 114 Fort Road is being used as the temporary facility; however, this building does not meet the fire company’s long-term needs. The Grantee for the proposed project is the New York State Division of Homeland Security and Emergency Services and the Subgrantee is the Niagara Engine Company No. 6, Inc.

The Subgrantee seeks funding from FEMA to replace and relocate the damaged facility to a new site outside the floodplain in an effort to reduce future flooding risk and have reliable fire services in ordinary and extraordinary circumstances, as described in FEMA-4020-DR-NY PW 05101 (hereon, the Project). The decision making process consists of subsequent eight steps (i.e., 1, 2, 3, 4, 5, 6, 7, 8) per 44 CFR Part 9.5(d), as follows:

Step 1 Determine if the proposed action is located in or affects or may be affected by the Floodplain or Wetland.

Niagara Engine Company No. 6’s original location for the Schoharie fire station (133 Grand Street; GPS: 42.665264 -74.313253) is located in Zone AE within the 100-year floodplain, which is in the Special Flood Hazard Area (SFHA), as noted on the National Flood Insurance Program’s (NFIP) Flood Insurance Rate Map (FIRM), Community Panel Number

361095C0187E effective April 2, 2004. The proposed directed relocation site for the new facility is two adjacent parcels, 114 Fort Street (Lot 19) and 118 Fort Street (Lot 20), to be used as one site in the Village of Schoharie (GPS: 42.675345 -74.303165). The proposed directed relocation site is located outside both the 100-year and 500-year floodplains, as noted on the FIRM, Community Panel Number 361095C0191 effective April 2, 2004.

Based on a wetlands review of both the fire station's original site (133 Grand Street) and the proposed project site (114 and 118 Fort Road) for the presence of NYS regulated freshwater wetlands conducted at the NYSDEC's "Environmental Resource Mapper" website; no state-regulated wetlands are mapped at either site. Based on a review of the U.S. Fish and Wildlife Service's (USFWS) National Wetlands Inventory (NWI) website; no Federally-mapped wetlands are present at either site.

According to a Phase I Wetland Evaluation conducted by Chazen Companies on November 2, 2012, the field investigation indicated the presence of two small wetlands on the proposed site:

- Wetland B consists of a linear wetland with aquatic vegetation within a drainage channel which extends from Fort Road in an east-southeasterly direction along and past the boundary between Lots 19 and 20, where it then turns to the southwest to the driveway, through a culvert pipe under the driveway, and then to the northeast into an upland drainage community. Wetland B is located adjacent to the proposed area of disturbance (AD) and may be affected by construction activities.
- Wetland E is located north of the driveway in the eastern portion of the site. Most of this wetland is located on the National Grid parcel and bisects Lot 19. This wetland is dominated by shrub vegetation with some herbaceous vegetation near the southern border. Construction activities would avoid Wetland E.

Step 2 Early public notice (Preliminary Notice)

On October 10, 2011, FEMA published a cumulative public notice for the Hurricane Irene disaster in the *New York Press Service* newspapers. As indicated in the public notice, "projects and activities may adversely affect historic property, floodplains or wetlands, or may result in continuing vulnerability to damage by flooding...however, certain measures to mitigate the effects of future flooding or other hazards may be included in the work". The public notice also stated that "mitigation measures will be incorporated on an action by action basis and this (the October 10, 2011 notice) may be the only public notice concerning these actions." In addition, a project specific notice, integrated with the Notice of Availability of the National Environmental Policy Act (NEPA) Environmental Assessment, will be published in the local newspaper, either the *Times Journal*, *The News of Schoharie County*. The public notice will invite comments within 30 days of the publication date of the notice.

Step 3 Identify and evaluate alternatives to locating in the base floodplain or wetland.

44 CFR 9.9 (b) requires that FEMA "identify and evaluate practicable alternatives to carrying out a proposed action in floodplains or wetlands, including:

- 1) Alternative sites outside the floodplain or wetland;
- 2) Alternative actions which serve essentially the same purpose as the proposed action, but which have less potential to affect or be affected by the floodplain or wetlands; and
- 3) No action. The floodplain and wetland site itself must be a practicable location in light of the factors set out in this section” (below).

Factors to consider in determining practicable alternatives include:

- 1) the natural environment (topography, habitat, hazards, etc.);
- 2) social concerns (aesthetics, historical and cultural values, land patterns, etc.);
- 3) economic aspects (cost of space, construction, services and relocation);
- 4) legal constraints (deeds, leases, etc.); and
- 5) engineering feasibility.

According to 44 CFR Part 9.9 (b), alternatives considered include:

- 1) No Action Alternative - No federal funding. Niagara Engine #6 continues operations from the temporary facility that is located outside the 100-year and 500-year floodplain.
- 2) Proposed Action Alternative - Relocate the facility permanently outside the 100-year and 500-year floodplain

The No Action Alternative would not provide Federal funding to reconstruct the new fire station at a new location and to demolish the former fire station. Thus, it is anticipated that the Subgrantee would continue to provide fire services from the former tractor dealership at 114 Fort Road. The facility would be outside the 100-year and 500-year floodplains and would avoid encroachment into the wetlands. However, this alternative is not practicable in the long term, as the temporary facility would not be adequate for full restoration of fire services to the community. Additionally, the vacant firehouse building at 133 Grand Street would remain vacant in the floodplain, creating a potential hazard or nuisance within the community. This alternative may jeopardize public health, safety, and well-being and thus it would not address the project’s purpose and need.

The Proposed Action Alternative would use eligible Federal funding to relocate the flood damaged fire station to a new site outside of the 100-year floodplain and 500-year floodplain (114 and 118 Fort Road). Relocating the facility (i.e., construct new facility) would reduce future flooding risk and ensure reliable fire services in ordinary and extraordinary circumstances. The proposed directed relocation site is two nearby parcels: 114 Fort Road is a former tractor supply dealership and 118 Fort Road was a single family home. The Subgrantee would demolish the damaged fire station (133 Grand Street) and remove it from the floodplain. The proposed project would have a beneficial impact on the floodplain. FEMA determines that the proposed project would have “no significant impact” to wetlands because less than 0.1 acre of wetland would be affected by new development.

Another alternative that was reviewed and dismissed considered repairing the existing fire station at 133 Grand Street. However, the facility is located within the 100-year floodplain; the flood damages were extensive, and the costs were prohibitive to repair and to bring the facility up to current building and safety codes, as well as construction of National Flood Insurance Program (NFIP) compliance measures.

Step 4 Identify impacts of the proposed action associated with occupancy or modification of the floodplain and wetland.

The proposed project would not adversely affect the natural habitat values or other functions of the floodplain. The proposed project would relocate Niagara Engine Company No 6 outside of the 100-year floodplain and 500-year floodplain; thereby reducing risk of flood damage from future storm events. The proposed project would have a beneficial impact on the floodplain. The Subgrantee would demolish and remove the damaged fire station (133 Grand Street) from the floodplain and build the new facility outside the floodplain. Thus, neither the old nor the new fire station would occupy or modify the floodplain. The Proposed Action Alternative would not have a significant impact to wetlands. Based on the currently proposed layout, the proposed project is expected to impact less than 0.1 acre of Wetland B. Wetland B is a vegetated drainage channel along the existing property line between lots 19 and 20, and as such, does not have high wetland function or wildlife values. Wetland E would not be impacted by the proposed project because it is located outside the area of disturbance.

Step 5 Design or modify the proposed action to minimize threats to life and property and preserve its natural and beneficial floodplain and wetland values.

In order to minimize the risk of future floodplain damage to the existing facility and to comply with EO 11988 and the NFIP, FEMA must minimize potential harm to lives and the investment at risk from the base flood. The Subgrantee is requesting funding to help relocate the flood damaged facility (i.e., construct new facility) outside the 100-year and 500-year floodplains. Moving the facility outside the floodplain would help to minimize future flood threats to life and property and improve natural and beneficial floodplain values by removing the damaged facility from the floodplain.

To minimize impacts to wetlands and to comply with EO 11990, best management practices would be used during construction to minimize impact to on-site wetland areas. Disturbance of Wetland B would be minimized to the extent practicable during final design. Any loss of wetland function as a result of construction would be compensated for by compliance with stormwater management regulations and/or any compensatory mitigation that may be required by the US Army Corps of Engineers.

Step 6 Re-evaluate the proposed action.

The No Action Alternative would have no direct and indirect effects on floodplain occupancy.

The Proposed Action Alternative would relocate the damaged facility outside of the 100-year and 500-year floodplains and help minimize future flood threats to life and property and improve natural and beneficial floodplain values by removing the damaged facility from the floodplain. The impact to wetlands at the directed relocation site would be minimal. FEMA's consideration of the Proposed Action Alternative as the practicable alternative has the greatest potential for public good, which meets the project's need and purpose.

Step 7 Findings and Public Explanation (Final Notification).

After evaluating alternatives, including impacts and minimization opportunities, FEMA has determined that the Proposed Action Alternative is the practicable alternative as set forth by factors described in 44 CFR Part 9.9(c) and documented in *Step 3* of this Eight-Step Review.

The Proposed Action Alternative would relocate the facility outside the 100-year and 500-year floodplains and reduce flooding risks from future storm events. While wetlands are found on the site of the Proposed Action Alternative, wetland impacts would be minimized.

FEMA's determination is documented in this summary and the associated Record of Environmental Consideration report for the proposed project. This Eight-Step Review will become part of the Niagara Engine Company No. 6 Inc. Environmental Assessment that will be made available for public review and comment with a project specific public notice. The Final Notice will be integrated with the Finding of No Significant Impact (FONSI) statement that is anticipated for the proposed action.

Step 8 Implement the action.

This is a Federal grant. The Subgrantee is responsible for review of the final building plans and will need to assure compliance with all applicable Federal laws, executive orders, and regulations, as well as state and local laws, regulations, codes and standards. The Subgrantee will need to obtain all required Federal, state, and local building and site development permits, such as a State Pollutant Discharge Elimination System (SPDES) permit, as a condition of the Federal grant, to preserve the environment, and to minimize risk and harm to life and property. The new facility must be sited, elevated or flood proofed to at/above the 500-Year Floodplain utilizing the Best Available Data for 500-year floodplain determination (*Flood Insurance Rate Map Community-Panel* Number 361095C0187E effective April 2, 2004) in accordance with the National Flood Insurance Program and 44 CFR Part 9.