



FEMA

October 2, 2015

TO: The Honorable Sally Jewell
Secretary, Department of Interior
Chair, Water Resources Council

THROUGH: Christy Goldfuss
Managing Director, White House Council on Environmental Quality

FROM: Roy E. Wright
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Deputy Associate Administrator for Insurance and Mitigation, FEMA

SUBJECT: MitFLG Transmittal of Revised *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*

Madam Secretary,

The Mitigation Framework Leadership Group (MitFLG) is pleased to present to the Water Resources Council (WRC) its recommended revisions to the *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 (Guidelines)*. These recommendations were developed following input from stakeholders during an open comment period that included submissions through e-mail, the Federal eRulemaking Portal, U.S. Mail, and collected during nine listening sessions.

What follows are highlights from these recommendations. The draft Guidelines continue to include key concepts from the 1978 Implementing Guidelines, including the following:

- The Guidelines are advisory to federal agencies. They do not create any right, benefit, substantive or procedural, enforceable at law or in equity by any part against the United States. The use of any mandatory language in the Guidelines is intended to capture elements of E.O. 11988 and E.O. 13690. The Guidelines provide broad guidance in the implementation of these Executive Orders and offer a common point of reference so that each agency can issue or amend their E.O. 11988 regulations and procedures, as appropriate.
- The scope of E.O. 11988 applies to Federal agencies and actions as defined in the Glossary.
- The minimum standard for non-critical federal actions that are not federally funded projects is the 1-percent-annual-chance flood elevation and corresponding horizontal floodplain. Agencies should continue to use the 0.2-percent-annual-chance flood elevation and corresponding horizontal floodplain for critical actions.

The Guidelines contain important updates and new concepts, including:

- The Guidelines incorporate the Federal Flood Risk Management Standard (FFRMS) and amendments found in E.O. 13690, such as:
 - The requirement that agencies, where possible, use natural systems, ecosystem processes, and nature-based approaches in the development of alternatives for all actions to which E.O. 11988 applies.
 - The requirement for agencies to expand management from the base flood elevation to a higher vertical flood elevation and corresponding horizontal floodplain for federally funded projects. Federally funded projects are actions where Federal funds are used for new construction, substantial improvement, or to address substantial damage to structures and facilities.
 - Agencies will use higher standards for actions that they determine to be critical actions.
- The Guidelines now describe the distinction between “actions” and “federally funded projects” described in the FFRMS. As noted above, the requirements of E.O. 11988 still apply to all actions as defined in the Glossary. The FFRMS approaches for determining a higher vertical flood elevation and corresponding horizontal floodplain must be used for federally funded projects.
- The Guidelines include new floodplain definitions to reflect the new approaches for determining the vertical flood elevation and corresponding horizontal floodplain described in the FFRMS. Specifically, the Guidelines now refer to the FFRMS floodplain in addition to floodplains associated with the 1-percent and 0.2-percent-annual-chance floods.
- The Guidelines recognize the importance of considering impacts to and engagement of vulnerable populations. These populations include those who are especially at risk to impacts of flooding due to their location, or because they are overburdened and lack resources or have less access to services.
- The Guidelines describe a new exception for actions that are considered to be in the interest of national security. Excepted actions will not be subject to the higher FFRMS standard. However, agencies are still required to follow the decision-making process outlined in Part 2 of the Guidelines using the 1-percent-annual-chance floodplain (.2-percent-annual-chance floodplain for critical actions) and should also consider the following floodplain management principles: anticipating a changing environment, supporting regional resilience, adopting sustainable solutions, and supporting holistic approaches to floodplain management.

- Although the FFRMS describes various approaches for determining the higher vertical flood elevation and corresponding horizontal floodplain for federally funded projects, it is not meant to be an “elevation” standard. The FFRMS is a resilience standard. The vertical flood elevation and corresponding horizontal floodplain determined using the approaches in the FFRMS establish the level to which a structure or facility must be resilient. This may include using structural or nonstructural methods to reduce or prevent damage; elevating a structure; or, where appropriate, designing it to adapt to, withstand and rapidly recover from a flood event.

Section 3(c) of E.O. 13690 requires agencies to update their existing regulations and procedures for implementing E.O. 11988 after the WRC issues the amended Guidelines. Each agency may have a different schedule for these updates based on the form of their agency-specific procedures. Agencies will continue to comply with the requirements of the 1977 version of E.O. 11988 until they update their regulations and procedures to incorporate the amendments from E.O. 13690. These regulations and procedures will describe an agency’s schedule for applying any new requirements.

This submission fulfills the MitFLG’s requirement under Section 3(a)(iii) of E.O. 13690. Pursuant to Section 3(b) of E.O. 13690, the WRC will consider the MitFLG’s recommendations and finalize the amended Guidelines to provide guidance to agencies on the implementation of E.O. 11988, as amended, consistent with the FFRMS.