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this overall evaluation shall be utilized to draft new guidelines and plans of study for public participation programs to be implemented after the Master Plan has been adopted.

# PART 725—IMPLEMENTATION OF EXECUTIVE ORDERS 11988, FLOODPLAIN MANAGEMENT AND 11990, PROTECTION OF WETLANDS

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AUTHORITY: The Water Resources Planning Act of 1965, sec. 402, Pub. L. 89–80, 79 Stat. 245 (42 U.S.C. 1962d–1), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 *et seq.*), the Flood Disaster Protection Act of 1973, as amended (87 Stat. 975), E.O. 11988 and E.O. 11990 (42 FR 26951).

SOURCE: 45 FR 76683, Nov. 20, 1980, unless otherwise noted.

## Subpart A—Introduction

### § 725.0 Purpose.

This rule establishes the procedures to be followed by the U.S. Water Resources Council for applying Executive Order 11988, Floodplain Management, and Executive Order 11990, Wetlands Protection, to the water resources planning assistance activities that it performs.

### § 725.1 Authority.

This rule is being promulgated pursuant to the Water Resources Planning Act of 1965, section 402, Pub. L. 89–90, 79 Stat. 245 (42 U.S.C. 1962d–1). In addition, Executive Order 11988, *Floodplain Management*, at section 2(d); directs the preparation of procedures implementing its provisions, as does Executive Order 11990, *Protection of Wetlands*, at section 6. Each of these Orders was prepared in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*). The floodplain management Order is also based on the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 *et seq.*), and the Flood Disaster Protection Act of 1977, as amended (87 Stat. 975).

### § 725.2 Policy.

It is the policy of the Council to provide leadership in floodplain management and the protection of wetlands. Further, the Council shall integrate the goals of the Orders to the greatest possible degree into its procedures for implementing the National Environmental Policy Act. The Council shall take action to:

(a) Avoid long- and short-term adverse impacts associated with the occupancy and modification of floodplains and the destruction or modification of wetlands;

(b) Avoid direct and indirect support of floodplain development and new construction in wetlands wherever there is a practicable alternative;

(c) Reduce the risk of flood loss;

(d) Promote the use of nonstructural loss reduction methods to reduce the risk of flood loss;

(e) Minimize the impact of floods on human health, safety and welfare;

(f) Minimize the destruction, loss or degradation of wetlands;

(g) Restore and preserve the natural and beneficial values served by floodplains;

(h) Preserve and enhance the natural and beneficial values served by wetlands;

(i) Involve the public throughout the floodplain management and wetlands protection decisionmaking process;

(j) Adhere to the objectives of the Unified National Program for Floodplain Management;

(k) Continually analyze existing and new policies of the Council to ensure consistency between them and the provisions of E.O. 11988 and 11990; and

(l) Improve and coordinate the Council's plans, programs, functions and resources so that the Nation may attain

the widest range of beneficial uses of the environment without degradation or risk to health and safety.

### § 725.3 Applicability.

These regulations apply to all Council actions which have the potential to affect floodplains or wetlands or which would be subject to potential harm if they were located in floodplains or wetlands. The basic test of the potential of an action to affect floodplains or wetlands is the action's potential to result in the long- or short-term adverse impacts associated with:

(a) The occupancy or modification of floodplains, or the direct and indirect support of floodplain development; or

(b) The destruction or modification of wetlands or the direct or indirect support of new construction in wetlands.

These procedures apply to Level A and B regional or river basin planning activities carried out by regional planning sponsors including consideration of inclusion of site specific projects in Level A or B regional or river basin plans. These procedures do not apply to site specific Level C planning carried out by individual Federal agencies. Each Federal agency shall use its own procedures promulgated pursuant to these Orders for such Level C planning.

### § 725.4 Definitions.

The following definitions shall apply throughout this regulation:

(a) All definitions from section 6 of E.O. 11988 (42 FR 26951); all definitions from section 7 of E.O. 11990 (42 FR 26951); and all definitions listed in the Glossary of the Council's Floodplain Management Guidelines for Implementing E.O. 11988 (43 FR 6030) from the term *base flood* through the term *structures*.

(b) *Action* means all Council activities including but not limited to plan review, study preparation, preparation and modifications to the Council's Principles, Standards and Procedures (P,S,&P), provision of financial assistance for State, regional, and river basin planning and reviews of compliance.

(c) *Council* means the U.S. Water Resources Council.

(d) *Enhance* means to increase, heighten, or improve the natural and beneficial values associated with wetlands.

(e) *Regional planning sponsors* means Federal agencies, states, groups of States, river basin commissions, interstate compact commissions and interagency committees.

## Subpart B—Responsibilities

### § 725.5 Council studies.

All studies and appraisals performed by the Council pursuant to section 102 of Pub. L. 89–80 and any recommendations based on these activities shall include specific analyses for reflection of and opportunities to meet the objectives of E.O. 11988 and E.O. 11990. The Council's Floodplain Management Guidelines (43 FR 6030), E.O. 11988 and E.O. 11990 provide the basic evaluation tools for these analyses.

### § 725.6 Principles, standards and procedures.

The Principles, Standards and Procedures established by the Council pursuant to section 103 of Pub. L. 89–80 shall reflect the provisions of the Executive Orders. These Principles, Standards and Procedures are found in 18 CFR parts 710 through 717.

### § 725.7 Regional or river basin planning.

(a) In agreements between river basin commissions or other regional planning sponsors and the Council for the preparation and revision of regional and river basin Level B Studies and regional water resource management plans, the responsible official representing the river basin commission or regional planning sponsor shall certify to the Council that the following criteria have been or will be utilized as part of the planning process:

(1) Determination of whether proposed activities would be located in floodplains or wetlands, or, even if located outside of them, would have the potential to affect floodplains or wetlands;

(2) Avoidance of performing activities within floodplains or wetlands wherever there is a practicable alternative;

(3) Where avoidance of floodplains cannot be achieved, minimization of adverse impacts and support of floodplain development, and preservation and restoration of natural and beneficial floodplain values;

(4) Where avoidance of wetlands cannot be achieved, minimization of adverse impacts and support of new construction in wetlands, and preservation and enhancement of natural and beneficial wetlands values; and

(5) Involvement of the public in the floodplain management and wetlands protection decisionmaking process.

(b) The Council's Floodplain Management Guidelines (43 FR 6030) shall be used as the basis for implementing the criteria in § 725.7(a)(1) through (5).

(c) The responsible official representing the regional planning sponsor shall, to the fullest extent of his or her authority, ensure that any activities carried out under his or her plans and programs meet the criteria in § 725.7(a)(1) through (5).

### § 725.8 Report, plan and recommendation development and review.

All reports, plans and recommendations received under section 104 of Pub. L. 89–80 shall be reviewed by the Council for reflection of and opportunities to meet the objectives of E.O. 11988 and 11990. This review shall be based on the criteria in § 725.7(a)(1) through (5), on E.O. 11988 and 11990, and on the Council's Floodplain Management Guidelines (43 FR 6030).

### § 725.9 Reviews of compliance.

Reviews of compliance performed pursuant to section 304 of Pub. L. 89–80 shall include analysis of each program's treatment of floodplain management and wetland protection in accordance with the manner in which these concepts are expressed in E.O. 11988, 11990, and the Council's Floodplain Management Guidelines (43 FR 6030).

## PART 740—STATE WATER MANAGEMENT PLANNING PROGRAM

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AUTHORITY: Water Resources Planning Act of 1965 (as amended), Pub. L. 89–80, 79 Stat. 244, 42 U.S.C. 1962c; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224, 92 Stat. 3, 41 U.S.C. 501 *et seq.;* E.O. 12044, 43 FR 12660.

SOURCE: 45 FR 72010, Oct. 30, 1980, unless otherwise noted.

### § 740.1 Purpose and scope.

(a) In recognition of the role of the States as the focal point for the management of water and related land resources, this part establishes guidelines for financial and program assistance to States for water management planning programs which address each State's particular needs, which are based on established State goals and objectives, and which take into consideration national goals and objectives.

(b) The purpose of the State Water Management Planning Program (Program) is to provide financial and program assistance to participating States to support the development and modification of comprehensive water management planning programs.

(c) Funds made available under this part shall be used to establish, develop or enhance existing or proposed State water resources management and planning programs that are designed to address pertinent State and national goals and objectives, as well as the goals and objectives of Title III of the Water Resources Planning Act (Act), Pub. L. 89–80, as amended, by addressing in the Program the following:

(1) Coordination of the program authorized by the Act and those related programs of other Federal agencies;

(2) Integration of water conservation with State water management planning;

(3) Integration of water quantity and water quality planning;

(4) Integration of ground and surface water planning;