

Region IV Federal Emergency Management Agency (FEMA) Floodplain and Wetlands Quick Guide

Executive Order (E.O.) 11988: Floodplain Management, Executive Order (E.O.) 11990: Protection of Wetlands (Both E.O.'s referred to as floodplain hereafter)

PURPOSE

The purpose of the EOs requires FEMA to minimize or avoid activities that adversely affects floodplains or that could be affected by floodplains. It requires FEMA to use a systematic decision-making process to evaluate the potential effects of projects located in, or affecting, floodplains and to document each step of the process; and involve the public in the decision-making process.

This process is designed to 1) reduce flood loss risk; 2) minimize the impacts of floods on human safety, health and welfare; and 3) restore and preserve the natural and beneficial functions of the floodplains. The decision-making process is referred to as the 8-step process. For eligibility requirements and EHP compliance information for projects refer to 44 CFR, Part 9.1, October 2018 edition; the PAPPG pages 82, 162; and the HMA unified guidance page 18.

Failure to mitigate or minimize the federal investment in the floodplain could jeopardize federal funding.

FEMA funding may be jeopardized if an action is initiated or completed prior to completion of EHP review even if the project is back to pre-disaster condition.

PROCEDURE AND DOCUMENTATION REQUIREMENTS

Any work in or adjacent to a floodplain or wetland, requires FEMA eligibility review, even if the work is 100% complete. 44 CFR part 9 requires FEMA to follow the 8-step process to inform decision making and the analysis will require:

- evaluations of alternatives,
- addressing minimization and mitigation measures (see NFIP technical bulletins <https://www.fema.gov/nfip-technical-bulletins> or <https://www.fema.gov/media-library/assets/documents/30627>), and
- posting of a final public notice and for the proposed action.

AN 8-STEP IS REQUIRED WHEN

Floodplain identification is determined through use of best available data per 44 CFR part 9.7.

For projects in or near a floodplain local, county, or state agencies (e.g., local Floodplain Administrator, local NFIP Coordinator) and the U.S. Army Corp of Engineers (USACE) coordination may be required per their requirements.

To determine if you project is in the floodplain or wetland check the:

- FEMA flood map service center: <https://msc.fema.gov/portal/home> for floodplain
- and the National Wetlands Inventory: <https://www.fws.gov/wetlands/data/mapper.html> for wetlands.

The 8-step process applies to projects in or affecting flood zones A or AE (the 1% chance (100-year) floodplain); projects damaged by flooding, but not in a mapped floodplain, are also considered in the floodplain and subject to the 8-step process per (44 CFR part 9.7 (b)).

The 8-step process applies to projects that are considered Critical Actions. Critical Actions are an action for which even a slight chance of flooding is too great. The minimum floodplain of concern for critical actions is the shaded zone X or 500-year floodplain (the 0.2% chance). Critical actions include, but are not limited to, those which create or extend the useful life of structures or facilities e.g. hospitals, fire stations, police stations, sewer services, wastewater treatment plants and lift stations, utilities, nursing homes, storage of critical records.

The 8-step process will apply to ALL projects that are over \$100,000, or that are located in a floodway or V, or VE zones, or that are for substantial damage or substantial improvement to a structure.

Part of the 8-step process involves the subrecipient identifying and evaluating alternatives to locating the proposed action in the floodplain or to mitigate or minimize those impacts by flooding, if functionally dependent (the function cannot be carried out unless it is in close proximity to water). Alternatives include alternative sites outside the floodplain, alternative actions which serve essentially the same purpose as the proposed action but have less potential to affect or be affected by the floodplain or wetland and including evaluation of the “no action” alternative.

Alternatives are actions that can be taken and that are capable of being done within existing constraints, with constraints being evaluated by four criteria:

- impacts to natural and cultural resources,
- economics,
- legal constraints and
- what is technologically feasible.

It is key when considering alternatives to consider what is the community's *purpose and need for the action*. For example, when the proposed action is to replace a road or a bridge. The community's need isn't to have a road or a bridge, but their actual need is to provide access to community members.

If an alternative exists outside the floodplain, the subrecipient must take that action. The goal of this process is to minimize the potential for adverse impacts to the community or floodplains and wetlands.

FINAL PUBLIC NOTICE PROCESS

FEMA will partner with the subrecipient on the final public notice process. FEMA EHP will draft the final public notice and provide it to the program to provide to the subrecipient to post from the PDMG. FEMA EHP will provide guidance to the program and the subrecipient as to what locations are suitable for posting the notice based on scale and impacts of the action and for how long to post the public notice.

Once the subrecipient has posted the final public notice, they will provide documentation to the program for EHP compliance and EHP will clear the project out of the EHP queue. Program will then wait 15 days to obligate the project as per 44 CFR 9.12(f).