

DRAFT EC Executive Summary Document

On January 30, 2015, the Executive Office of the President issued Executive Order 13690, *Establishing a Federal Flood Risk Management Standard (FFRMS) and a Process for Further Soliciting and Considering Stakeholder Input*. EO 13690 amended EO 11988, *Floodplain Management*, (originally issued in 1977) and established the Federal Flood Risk Management Standard (FFRMS) to improve the Nation's resilience to current and future flood risks. EO 13690 expands upon the tenets and concepts in EO 11988 by calling for federal agencies to use a higher vertical flood elevation and corresponding horizontal floodplain than the base flood. Additional guidance on implementation of EO 11988, as amended, can be found in the interagency *Guidelines for Implementing EO 11988, Floodplain Management, and EO 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input*, published October 8, 2015.

U.S. Army Corps of Engineers (Corps) policy and procedures for complying with the original version of EO 11988 were issued through Engineering Regulation (ER) 1165-2-26 in 1984. This new Engineer Circular was developed to ensure that the Corps of Engineers fully implements the requirements of EO 11988, including the amendments that resulted from EO 13690. Key features of the draft EC and updates to policy and procedures to implement the new requirements include the following:

- The EC continues to apply to all HQUSACE elements, Major Subordinate Commands (MSCs), District Commands, and field operating activities (FOAs) having Civil Works responsibility, which is consistent with applicability of ER 1165-2-26.
- Section 7 of the EC, General Policy, reinforces the policy of the Corps to formulate, construct, operate, and maintain projects which, to the extent possible, avoid or minimize adverse impacts associated with use of the floodplain and avoid inducing development in the floodplain, unless there is no practicable alternative. Projects or actions that induce development in the floodplain should be avoided unless there is no practicable alternative. Changes to EO 11988 by EO 13690 require two important changes to the policy:
 1. Section 7a states that the Corps will use the approaches in the FFRMS to determine the flood elevation and corresponding horizontal floodplain rather than the base floodplain referred to in ER 1165-2-26, unless it is inappropriate. Additionally, higher standards will be used for critical actions, which are broadly defined in the EC and will be defined in more detail in subsequent program-specific guidance. Section 8c goes on to list the three approaches for floodplain determination currently in the FFRMS and states that all Corps actions will utilize the Climate-informed Science Approach, unless compelling justification for using one of the other approaches is developed and documented. More detail about the Climate-informed Science Approach can be found in other referenced agency guidance documents.
 2. Section 7c states that, where possible and consistent with Corps regulations and policies, the Corps will use natural systems, ecosystem processes, and nature-based approaches (collectively referred to as natural and nature-based approaches) alone and in combination with other structural and nonstructural measures when considering alternatives.

- Section 6 of the EC provides additional information on how the EC should be applied. Specifically, the EC applies to Corps actions that fall into the three categories of actions defined by EO 11988. Within those three categories of action, most Corps actions will need to consider the horizontal extent of the floodplain and corresponding vertical flood elevation defined by the FFRMS, while some Corps actions will continue to consider the 1-percent-annual-chance floodplain. Corps action completed prior to the date of issuance will not be re-evaluated. For actions initiated and beyond the tentatively selected plan stage, the requirements specified in ER 1165-2-26 will apply.
- Section 6 retains the exemption from EO 11988 for emergency flood-related actions. The section also includes an exception for actions that are in the interest of national security from the higher standards in the FFRMS when determining the applicable floodplain. These actions should continue to use the 1-percent-annual-chance floodplain.
- For the Corps Regulatory Program, floodplain management and EO 11988 are discussed at 33 CFR 320.4(l). This EC will not be applicable to the Corps Regulatory Program executed under the Clean Water Act (33 USC 1344), Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 USC 401, 403), and Section 103 of the Ocean Dumping Act (33 USC 1413).
- The General Procedures in Section 8 provide more detailed information on how to determine the floodplain, identify alternatives for proposed actions in the floodplain, minimize impacts of those projects that must be located in the floodplain, and communicate with stakeholders about decisions and findings. These procedures are aligned with the eight-step decision-making process derived from EO 11988 and are essentially the same as the procedures identified in ER 1165-2-26 with the exception of references to the floodplain determination approaches in the FFRMS. However, Section 8h (Step 7) has been modified such that public notifications should include what, if anything, was done to minimize impacts and restore and preserve floodplain values as a result of EO 11988 implementation efforts.
- Section 13 addresses Public Participation in carrying out the requirements of the EC. The section expands references to the National Environmental Policy Act (NEPA). When Corps actions being considered in the floodplain, they are also subject to NEPA requirements and agency procedures for complying with NEPA public participation requirements are usually adequate for complying with EO 11988 public participation requirements. NEPA documentation must include record of the inclusion of floodplain impacts relevant to EO 11988.