



Applicability of Floodplain Management and FFRMS Executive Orders to USACE Permitting Authorities

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

Background

On January 30, 2015, the president signed Executive Order (E.O.) 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, which amended E.O. 11988, Floodplain Management, issued in 1977. Once implemented by Federal agencies, the Federal Flood Risk Management Standard (FFRMS) is intended to reduce the risk and cost of future flood disasters by ensuring that Federal investments in and affecting floodplains are constructed to better withstand the impacts of flooding.

Historical Applicability of E.O. 11988 to USACE Regulatory Program Permits

Under Section 404 of the Clean Water Act, a Department of Army (DA) permit is required for the discharge of dredged or fill material into waters of the U.S., including wetlands. Under Section 10 of the Rivers and Harbors Act, a DA permit is required for work on structures in, over, or under navigable waters of the U.S., or that affects the course, location or condition of such waters.

The USACE Regulatory Program regulations (33 CFR 320.4) require USACE to consider the requirements of E.O. 11988 when determining whether or not to issue a DA permit under these authorities. Specifically, USACE must consider the requirements of E.O. 11988 as part of its public interest review when an application is received requesting authorization to impact waters of the U.S. that also has the potential to alter a floodplain.

In accordance with 33 CFR 320.4(j)(2), the primary responsibility for determining zoning and land use matters rests with Tribal, state, and local governments.

Applicability of E.O. 13690 to USACE Regulatory Program Permits

Activities requiring DA authorization under Section 404 or Section 10 are not subject to Section 2(i) of E.O. 13690, which amends Section 6(c) of E.O. 11988 and establishes three methods for determining the floodplain of concern. The USACE Regulatory Program will continue to review applications by applying the area subject to the “base flood” as the relevant “floodplain” as defined in E.O. 11988 and under 33 CFR 320.4.

For More Information

- Fact Sheet on E.O. 13690
https://www.whitehouse.gov/administration/eop/ceq/Press_Releases/January_30_2015
- Website on E.O. 13690 and the Federal Flood Risk Management Standard
<https://www.fema.gov/federal-flood-risk-management-standard-ffrms>
- Executive Order 11988 – Floodplain Management
<https://www.fema.gov/executive-order-11988-floodplain-management>
- USACE Regulatory Program Website -
<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx>
- 33 CFR Part 320 - http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title33/33cfr320_main_02.tpl

U.S. ARMY CORPS OF ENGINEERS – HEADQUARTERS

441 G Street, NW
Washington, DC 20314-1000
www.usace.army.mil