ORDER


1. PURPOSE. This Order prescribes policies and procedures for ensuring that proper consideration is given to the avoidance and mitigation of adverse floodplain impacts in agency actions, planning programs, and budget requests.

2. AUTHORITY. This Order is issued pursuant to the following statutes and executive order:

a. The National Environmental Policy Act of 1969 (NEPA) (P.L. 91-190) establishes a national policy to, among other things, "...promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man...." NEPA requires preparation of an environmental impact statement (EIS) for any major Federal action significantly affecting the quality of the human environment. DOT 5610.18, Procedures for Considering Environmental Impacts, of 9-30-74, Attachment 2, paragraph 11, requires that information on flood hazards, if relevant, be included in the EIS.

b. The National Flood Insurance Act of 1968, Title XIII of the Housing and Urban Development Act of 1968 (P.L. 90-448, 8-1-68), provides previously unavailable flood insurance protection to property owners in flood-prone areas. Section 1302(c) of the Act stipulates that "the objectives of a flood insurance program should be integrally related to a unified national program for floodplain management...."

c. Executive Order 11988 - Floodplain Management, promulgated on 5-24-77, links the need to protect lives and property with the need to restore and preserve natural and beneficial floodplain values. Federal agencies are directed to avoid conducting, allowing, or supporting...
e. Environmental Impact Statement - the detailed statement mandated by section 102(2)(C) of the National Environmental Policy Act of 1969 (ref: DOT 5610.1B).

f. Facility - any element of the built environment other than a walled or roofed building.

f. Flood or Flooding - a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

g. Flood of Record - the largest historical flood event which has been reliably determined and recorded.

h. Floodplain - the lowland areas adjoining inland and coastal waters which are periodically inundated by flood waters, including flood-prone areas of offshore islands.

i. Floodproofing - the incorporation of design features in, or modifications to, individual structures and facilities, their sites and their contents to protect against structural failure, to keep water out, or to reduce effects of water entry, so that threats to human life and property are reduced.

j. Minimize - to reduce to the smallest practicable amount or degree.

k. Natural and Beneficial Floodplain Values - include but are not limited to: natural moderation of floods, water quality maintenance, groundwater recharge, fish, wildlife, plants, open space, natural beauty, scientific study, outdoor recreation, agriculture, aquaculture, and forestry.

l. Negative Declaration - a determination by the responsible official that a particular action does not significantly affect the quality of the human environment.

m. Practicable - capable of being done within natural, social, and economic constraints.
b. The provisions of this Order do not apply to or alter decisions, approvals, or authorizations which were given by the Department or its elements pursuant to directives in effect before the date of this Order's publication in the Federal Register, nor do they apply to transportation projects where:

(1) the final EIS is filed with the Environmental Protection Agency within 12 months after the date of this Order's publication in the Federal Register; or any public hearings have been held and a negative declaration has been approved, within 120 days after that publication date; or

(2) the only step being taken in the floodplain is the relocation of persons into existing housing units, except that potential occupants shall be advised at the appropriate stage if the relocation housing is located in a base floodplain and be offered alternative comparable housing at their option.

c. DOT elements may develop categories of projects which are not subject to the requirements of this Order due to their negligible potential, alone or cumulatively, for resulting in adverse impacts associated with the occupancy or modification of floodplains, or the direct or indirect support of floodplain development.

6. FLOODPLAIN IDENTIFICATION. Base floodplain limits shall be determined and encroachments delineated for reasonable alternative actions through the following sources:

a. Federal Insurance Administration (FIA) maps shall be used as the primary reference for establishing base floodplain limits (obtain maps from the U.S. Department of Housing and Urban Development sources listed in 43 FR 6050).

(1) A Flood Insurance Rate Map (FIRM) or Flood Insurance Study Report (FIS) shall be consulted first.
a. Draft environmental review documents (draft EISs and any preliminary versions of negative declarations) shall cover the items below for all alternatives involving encroachments:

(1) any risk to, or resulting from, the transportation action;

(2) the impacts on natural and beneficial floodplain values; and

(3) the degree to which the action provides direct or indirect support for development in the base floodplain.

b. Draft environmental review documents shall also include sufficient discussion to permit an initial review of the adequacy of methods proposed to minimize harm, and, where practicable, to restore and preserve the natural and beneficial floodplain values affected. In most cases, conceptual design (as opposed to detailed engineering studies) should be sufficient to help establish the adequacy of mitigation measures. Commitments to later compliance with special flood-related design criteria or the imposition, in advance, of protective conditions may be warranted in some situations.

c. Final environmental review documents (final EISs and final versions of negative declarations) reflecting a decision on the preferred alternative shall clearly identify the floodplain concerns and impacts associated with that alternative and cover the items listed in subparagraphs a and b above.

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1/ DOT elements shall follow a rule of reason in determining how much floodplain information needs to be incorporated in draft EISs circulated during a six-month period after the date of the Order's publication in the Federal Register.

2/ Guidance and examples regarding methods for minimizing harm to floodplains and for restoring and preserving the natural and beneficial floodplain values affected can be found in 43 FR 6047-48.
consideration of flood hazards and measures to avoid or minimize floodplain impacts. As appropriate, modifications shall be made to regulations and operating procedures for licenses, permits, and loan or grant-in-aid programs to accomplish this purpose. These changes should be submitted to the Assistant Secretary for Policy and International Affairs for review within 120 days after the date of this Order's publication in the Federal Register.

b. Each DOT element shall have the option of applying this Order directly to its programs and activities within 120 days of its date of publication in the Federal Register or of issuing its own floodplain regulations or procedures, consistent with this Order. Such regulations or procedures shall be submitted within the same 120-day period, to the Assistant Secretary for Policy and International Affairs for concurrence.

c. DOT elements may elect to develop project-related engineering design standards reflecting flood hazard and floodplain considerations, for their individual programs.

11. BUDGET REQUESTS. Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if a specific proposal will involve significant encroachment upon a floodplain, that the proposed action is in accord with Executive Order 11988.

12. FEDERAL REAL PROPERTY AND FACILITIES. Departmental elements with responsibilities for Federal real property and facilities shall take the following measures, in addition to those specified in the other sections of this Order.

a. The construction of walled or roofed buildings or other facilities shall be consistent with the intent of the standards and criteria promulgated under the National Flood Insurance Program, and shall deviate only to the extent that the standards of the Flood Insurance Program are demonstrably inappropriate for the given case.

b. If, after compliance with the requirements of this Order, new or rehabilitated buildings are to be located in a floodplain, accepted floodproofing and other flood protection measures shall be applied. To achieve flood

15. **FLOOD DISASTER PROTECTION ACT.** The Flood Disaster Protection Act contains certain provisions which can affect DOT programs. Basically, the Act mandates the purchase of flood insurance as a condition of receiving Federal assistance for the construction or repair of buildings located in areas having special flood hazards as identified by FIA. The requirement also applies when Federal assistance is being used to purchase equipment which will be housed in buildings which are located in such special flood hazard areas. Flood-prone communities may arrange for flood insurance through FIA's National Flood Insurance Program. DOT elements shall take steps to assure full compliance with this requirement (set forth in section 202(a) of the Act), where applicable.

16. **EMERGENCY PROVISIONS.** Nothing in this Order shall prevent the timely provision of assistance or funds for emergency repairs essential to save lives and to protect property and public health and safety. However, a reasonable effort to comply with the Order shall be made during and/or after the emergency period.

**FOR THE SECRETARY OF TRANSPORTATION:**

Alan Butchman  
Deputy Secretary