

(1) Substantial environmental controversy concerning a proposed action and a request for a hearing by any responsible individual or organization;

(2) A request for a hearing by an agency with jurisdiction over or special expertise concerning the proposed action; or

(3) A reasonable expectation that a hearing will produce significant information not likely to be obtained without a hearing.

(b) The distribution and notice requirements of §§ 775.8(d)(1) and 775.10 must be complied with whenever a hearing is to be held.

PART 776—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS PROCEDURES

Sec.

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AUTHORITY: 39 U.S.C. 401.

SOURCE: 46 FR 22366, Apr. 17, 1981, unless otherwise noted.

§ 776.1 Purpose and policy.

(a) Executive Order 11988, Floodplain Management, was issued on May 24, 1977, under authority of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, et seq.) (NEPA), the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001), and the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 87 Stat. 9451). Executive Order 11990, Protection of Wetlands, was issued on May 24, 1977, under authority of NEPA. The purpose of these Orders was to avoid adverse impacts associated with the occupancy and/or modification of floodplains; or the modification and destruction of wetlands.

(b) These procedures implement Executive Orders 11988 and 11990 and are adopted under the Postal Reorganization Act rather than the statutes listed in paragraph (a) of this section, to the extent these statutes do not apply to

the Postal Service under 39 U.S.C. 410(a).

(c) These procedures provide guidance:

(1) To avoid direct or indirect, long or short term adverse impact on floodplains and wetlands;

(2) To reduce the risk of flood loss;

(3) To minimize the impact of floods on human safety, health, and welfare;

(4) To restore and preserve the natural and beneficial values served by floodplains;

(5) To minimize the destruction, loss, or degradation of wetlands;

(6) To preserve and enhance the natural and beneficial values of wetlands; and

(7) To avoid direct or indirect support of floodplain development.

(d) These procedures are general in nature. Postal Service Handbook RE-6, *Environmental Procedures*, provides detailed procedures for implementing these executive orders.

§ 776.2 Responsibility.

The Assistant Postmaster General, Facilities Department, is responsible for overall compliance with these procedures.

[46 FR 22366, Apr. 17, 1981, as amended at 51 FR 40170, Nov. 5, 1986]

§ 776.3 Scope.

These procedures are applicable to every proposed postal facility project which involves:

(a) New construction, for ownership or lease;

(b) Existing buildings, owned or leased, except the acquisition of existing leased facilities when no substantial external change in the configuration of the facility will occur;

(c) Modernization or improvement of an existing facility where the external configuration of the building or the use of the facility is changed substantially and significantly;

(d) Disposal or lease of owned, excess property;

(e) Proposals for granting a property easement or right-of-way to non-federal public or private parties.

§ 776.4 Definitions.

(a) A *floodplain*, for the purposes of these procedures, is the area in which a

flood has a one percent chance of occurrence in any given year (also known as a 100-year flood).

(b) A *wetland*, for the purposes of these procedures, is an area that is inundated by surface or ground water frequently enough to support a prevalence of vegetable or aquatic life requiring saturated or seasonally saturated soil conditions for growth and reproduction.

[46 FR 22366, Apr. 17, 1981, as amended at 55 FR 10455, Mar. 21, 1990]

§ 776.5 New construction.

(a) *Construction in floodplain/wetland.* During the evaluation of contending sites for a proposed project, information concerning impacts on wetlands and floodplains will be collected and considered. If use of a site would require construction in a floodplain or wetland, the site may be considered only when there is no practicable alternative site.

(b) *Floodplain/Wetland Information.* Floodplain and wetland information must be compiled and considered throughout the facility planning process. If a proposed action will occur in or impact a floodplain or wetland site, specific floodplain or wetland information must be developed. As a minimum, the information should:

(1) Document whether the proposed action will directly or indirectly support floodplain development.

(2) Document the impacts a proposed action would have on the floodplain or wetland, including positive and negative; concentrated and dispersed; short-term and long-term.

(3) Document the flood hazard and risk to lives and property.

(4) Present the natural and beneficial floodplain values.

(5) Present measures which will preserve the floodplain, minimize harm to it, or restore it. Minimization of harm is assessed in terms of:

(i) The amount of investment at risk or the flood loss potential of the action itself,

(ii) The impact the action may have on others, and

(iii) The impact the action may have on floodplain values.

(c) *Environmental Assessment/Impact Statement.* Information developed con-

cerning the floodplain or wetland must be evaluated in an Environmental Impact Statement or an Environmental Assessment, if either is prepared, and made available to the public under 39 CFR part 775.

(d) *Site planning.* During site evaluation, a determination must be made whether any of the identified site alternatives would require construction in, or appear to have an impact on, a floodplain or wetland. This information will be included as part of any required Environmental Assessment.

(e) *Analysis of alternatives.* If any of the site alternatives identified under paragraph (d) of this section would involve construction within a floodplain or wetland, an analysis of alternatives must be prepared, and must include:

(1) Alternate sites as identified in the site planning process;

(2) Other means which accomplish the same purpose as the proposed action; and

(3) A no-action alternative.

(f) *Reevaluation.* If, after consideration of information and analyses produced under paragraphs (b), (d), and (e) of this section, and (if required) review through an Environmental Assessment or Environmental Impact Statement, the determination is that there appears to be no practicable alternative to constructing in a floodplain or wetland, a final reevaluation of alternatives must be conducted. The Facilities Service Center Director is responsible for this reevaluation. To facilitate this reevaluation, the following data must be submitted to the Facilities Service Center Director:

(1) A summary of reasons why the rejected alternatives and alternative sites, if any, were considered impracticable.

(2) Detailed descriptions of all rejected alternatives and alternative sites.

(3) A summary of comments received from the public and the appropriate review officials identified in the Postal Service regulations and procedures governing intergovernmental review of Postal Service facility project actions as a result of proper public notices.

(4) Documentation from the site evaluation and planning process.

(5) The Environmental Assessment or Environmental Impact Statement, if either was required.

(6) The floodplain or wetland location map from which the determination was made. The map or other information should indicate appropriate site elevations (contours), base floor elevation, and the floodplain elevation at the site.

(7) The facility functional design specifications or site utilization drawings, if available.

(8) Other information pertinent to the proposal as determined by the stage of development of the project.

(g) *Alternative Available.* If the Facilities Service Center Director, determines that there may be a practicable site alternative to the one selected, the appropriate Postal Service organization is advised to abandon the selected course and pursue other alternatives.

(h) *No alternative.* If the Facilities Service Center Director determines that there is not a practicable alternative to constructing in a floodplain or wetland, the appropriate Postal Service organization is so advised. The Director may provide instructions for mandatory measures to be accomplished during design and construction to minimize harm to the floodplain or wetland.

(i) *Public Notice.* If there is no practicable alternative to constructing in a floodplain or wetland, the Facilities Service Center Director, must provide a public notice (see §776.8) as soon as possible for the proposed action. The notice includes:

(1) A description of why the proposed action must be located in a floodplain or wetland;

(2) A description of all significant facts considered in making the determination, including alternative sites and actions;

(3) A statement indicating whether the actions conform to applicable state or local floodplain/wetland protection standards;

(4) If applicable, a statement indicating why the National Flood Insurance Program criteria are demonstrably inappropriate for the proposed action;

(5) A description of measures that will be taken to minimize harm to the floodplain or wetland;

(6) A statement indicating how the action affects natural or beneficial floodplain values; and

(7) A list of any other involved agencies or individuals.

(j) *Design Requirements.* If structures impact, are located in, or support development of a floodplain or wetland, the design must include measures necessary (1) to minimize harm to the floodplain or wetland; (2) to reduce the risk of flood loss; (3) to minimize destruction, loss, or degradation of wetlands; (4) to minimize the impact on human safety, health, and welfare; and (5) to restore and preserve the natural and beneficial floodplain and wetland values. Construction must conform, at a minimum, to the standards and criteria of the National Flood Insurance Program, except where those standards are demonstrably inappropriate for postal purposes.

[46 FR 22366, Apr. 17, 1981, as amended at 48 FR 29378, June 24, 1983; 50 FR 32411, Aug. 12, 1985; 51 FR 40170, Nov. 5, 1986; 55 FR 10455, Mar. 21, 1990; 55 FR 12822, Apr. 6, 1990]

§776.6 Existing buildings, owned or leased.

(a) *Installing Markers for Flood Hazards.* If property used by the general public has suffered flood damage or is located in a floodplain or flood hazard area, conspicuous markers must be installed on structures and other appropriate places to show past flood record height and the probable 100-year flood height. These must be installed where they will be readily visible to the general public visiting or using the facility.

(b) *Warning Procedures for Floods.* The Regional Director, Mail Processing Department, must develop warning and evacuation procedures for properties subject to flash floods or rapid rise floods.

§776.7 Disposal, lease, easement to non-federal public or private parties.

For actions involving a lease, easement right-of-way, or disposal to non-federal public or private parties, a determination whether the proposed action will occur in a floodplain or wetland must be made. If the action will

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occur in a floodplain or wetland, the Postal Service must:

(a) Reference in the conveyance those uses that are restricted under identified federal, state, or local floodplain or wetland regulations; and

(b) Attach other appropriate restrictions to the use of properties by the Grantee or purchaser and any successors, which assure (1) that harm to lives, property, and the floodplain or wetland values are identified and are minimized, and (2) that floodplain or wetland values are restored and preserved, except where prohibited by law; or

(c) Withhold the property from conveyance.

§ 776.8 Public notice.

(a) Public notice of Postal Service plans for locating a proposed project in a floodplain or a wetland will be sent to: the appropriate review officials identified in the Postal Service regulations and procedures governing inter-governmental review of Postal Service facility project actions; local public officials; local newspapers; and other parties who express interest in the project.

(b) The notice must contain the information described in § 776.5(i).

(c) The public notice also must contain a provision for a 30-day public commenting period before any action is taken to acquire the site.

[46 FR 22366, Apr. 17, 1981, as amended at 48 FR 29378, June 24, 1983]

PART 777—RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Subpart A—General Policy, Purpose and Definitions

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AUTHORITY: 39 U.S.C. 401.

SOURCE: 51 FR 6983, Feb. 27, 1986, unless otherwise noted.

Subpart A—General Policy, Purpose and Definitions

§ 777.11 General policy.

It is the policy of the Postal Service to comply voluntarily with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646; 84 Stat. 1894), hereinafter referred to as the Act.

§ 777.12 Purpose.

The purpose of these regulations is to update policy and procedures for the Postal Service's voluntary compliance with the Act.

§ 777.13 Definitions.

(a) *The Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646; 84 Stat. 1894).

(b) *Business.* Any lawful activity, except a farm operation, that is:

(1) Conducted primarily for the purchase, sale, lease, and/or rental of personal and/or real property, and for the manufacturing, processing, and/or marketing of products, commodities, and/or any other personal property; or

(2) Conducted primarily for the sale of services to the public; or

(3) Solely for the purposes of reimbursing moving and related expenses,