

§9.12

44 CFR Ch. I (10–1–09 Edition)

(f) *Restore and preserve.* (1) For any action taken by the Agency which affects the floodplain or wetland and which has resulted in, or will result in, harm to the floodplain or wetland, the Agency shall act to restore and preserve the natural and beneficial values served by floodplains and wetlands.

(2) Where floodplain or wetland values have been degraded by the proposed action, the Agency shall identify, evaluate and implement measures to restore the values.

(3) If an action will result in harm to or within the floodplain or wetland, the Agency shall design or modify the action to preserve as much of the natural and beneficial floodplain and wetland values as is possible.

[45 FR 59526, Sept. 9, 1980, as amended at 46 FR 51752, Oct. 22, 1981; 48 FR 44543, Sept. 29, 1983; 49 FR 33879, Aug. 27, 1984; 49 FR 35584, Sept. 10, 1984; 50 FR 40006, Oct. 1, 1985]

EFFECTIVE DATE NOTE: At 45 FR 79070, Nov. 28, 1980, §9.11(e)(4) was temporarily suspended until further notice.

§9.12 Final public notice.

If the Agency decides to take an action in or affecting a floodplain or wetland, it shall provide the public with a statement of its final decision and shall explain the relevant factors considered by the Agency in making this determination.

(a) In addition, those sent notices under §9.8 shall also be provided the final notice.

(b) For actions for which an environmental impact statement is being prepared, the FEIS is adequate to constitute final notice in all cases except where:

(1) Significant modifications are made in the FEIS after its initial publication;

(2) Significant modifications are made in the development plan for the proposed action; or

(3) Significant new information becomes available in the interim between issuance of the FEIS and implementation of the proposed action.

If any of these situations develop, the Agency shall prepare a separate final notice that contains the contents of paragraph (e) of this section and shall make it available to those who received the FEIS. A minimum of 15 days

shall, without good cause shown, be allowed for comment on the final notice.

(c) For actions for which an environmental assessment was prepared, the Notice of No Significant Impact is adequate to constitute final public notice, if it includes the information required under paragraph (e) of this section.

(d) For all other actions, the finding shall be made in a document separate from those described in paragraphs (a), (b), and (c) of this section. Based on an assessment of the following factors, the requirement for final notice may be met in a cumulative manner:

(1) Scale of the action;

(2) Potential for controversy;

(3) Degree of public need;

(4) Number of affected agencies and individuals;

(5) Its anticipated potential impact; and

(6) Similarity of the actions, i.e., to the extent that they are susceptible of common descriptions and assessments.

When a damaged structure or facility is already being repaired by the State or local government at the time of the Damage Survey Report, the requirements of Steps 2 and 7 (§§9.8 and 9.12) may be met by a single notice. Such notice shall contain all the information required by both sections.

(e) The final notice shall include the following:

(1) A statement of why the proposed action must be located in an area affecting or affected by a floodplain or a wetland;

(2) A description of all significant facts considered in making this determination;

(3) A list of the alternatives considered;

(4) A statement indicating whether the action conforms to applicable state and local floodplain protection standards;

(5) A statement indicating how the action affects or is affected by the floodplain and/or wetland, and how mitigation is to be achieved;

(6) Identification of the responsible official or organization for implementation and monitoring of the proposed action, and from whom further information can be obtained; and

(7) A map of the area or a statement that such map is available for public

inspection, including the location at which such map may be inspected and a telephone number to call for information.

(f) After providing the final notice, the Agency shall, without good cause shown, wait at least 15 days before carrying out the action.

[45 FR 59526, Sept. 9, 1980, as amended at 48 FR 29318, June 24, 1983]

§ 9.13 Particular types of temporary housing.

(a) The purpose of this section is to set forth the procedures whereby the Agency will provide certain specified types of temporary housing.

(b) Prior to providing the types of temporary housing enumerated in paragraph (c) of this section, the Agency shall comply with the provisions of this section. For all temporary housing not enumerated below, the full 8-step process (see § 9.6) applies.

(c) The following temporary housing actions are subject to the provisions of this section and not the full 8-step process:

(1) [Reserved]

(2) Placing a mobile home or readily fabricated dwelling on a private or commercial site, but not a group site.

(d) The actions set out in paragraph (c) of this section are subject to the following decision-making process:

(1) The temporary housing action shall be evaluated in accordance with the provisions of § 9.7 to determine if it is in or affects a floodplain or wetland.

(2) No mobile home or readily fabricated dwelling may be placed on a private or commercial site in a floodway or coastal high hazard area.

(3) An individual or family shall not be housed in a floodplain or wetland unless the Regional Administrator has complied with the provisions of § 9.9 to determine that such site is the only practicable alternative. The following factors shall be substituted for the factors in § 9.9 (c) and (e) (2) through (4):

(i) Speedy provision of temporary housing;

(ii) Potential flood risk to the temporary housing occupant;

(iii) Cost effectiveness;

(iv) Social and neighborhood patterns;

(v) Timely availability of other housing resources; and

(vi) Potential harm to the floodplain or wetland.

(4) An individual or family shall not be housed in a floodplain or wetland (except in existing resources) unless the Regional Administrator has complied with the provisions of § 9.11 to minimize harm to and within floodplains and wetlands. The following provisions shall be substituted for the provisions of § 9.11(d) for mobile homes:

(i) No mobile home or readily fabricated dwelling may be placed on a private or commercial site unless it is elevated to the fullest extent practicable up to the base flood level and adequately anchored.

(ii) No mobile home or readily fabricated dwelling may be placed if such placement is inconsistent with the criteria of the National Flood Insurance Program (44 CFR part 59 *et seq.*) or any more restrictive Federal, State or local floodplain management standard. Such standards may require elevation to the base flood level in the absence of a variance.

(iii) Mobile homes shall be elevated on open works (walls, columns, piers, piles, etc.) rather than on fill where practicable.

(iv) To minimize the effect of floods on human health, safety and welfare, the Agency shall:

(A) Where appropriate, integrate all of its proposed actions in placing mobile homes for temporary housing in floodplains into existing flood warning and preparedness plans and ensure that available flood warning time is reflected;

(B) Provide adequate access and egress to and from the proposed site of the mobile home; and

(C) Give special consideration to the unique hazard potential in flash flood and rapid-rise areas.

(5) FEMA shall comply with Step 2 Early Public Notice (§ 9.8(c)) and Step 7 Final Public Notice (§ 9.12). In providing these notices, the emergency nature of temporary housing shall be taken into account.

(e) FEMA shall not sell or otherwise dispose of mobile homes or other readily fabricated dwellings which would be located in floodways or coastal high