

(d) A minimum of 45 days must be allowed for comments on draft statements.

[44 FR 63525, Nov. 5, 1979. Redesignated at 63 FR 45719, Aug. 27, 1998]

§ 775.13 Public notice and information.

(a) Public notice is given of NEPA-related hearings, intent to undertake environmental assessments and environmental impact statements, and the availability of environmental documents (that is, environmental assessments, findings of no significant impact, and environmental impact statements), as follows:

(1) Notices must be mailed to those who have requested them.

(2) Notices concerning a proposal of national concern must be mailed to national organizations reasonably expected to be interested. Any such notice must be published in the FEDERAL REGISTER. (See paragraph (a)(4) of this section.)

(3) Notices of any proposed action having effects primarily of local concern are given as follows:

(i) Any such notice, including a copy of any pertinent environmental document, must be mailed to the appropriate review officials identified in the Postal Service regulations and procedures governing intergovernmental review of Postal Service facility project actions, to the State Historic Preservation Officer, and to local public officials.

(ii) Any such notice must be published in one or more local newspapers.

(iii) Any such notice must be posted on and near any proposed and alternate sites for an action.

(iv) Any such notice may be mailed to potentially interested community organizations, including small business associations.

(v) Any such notice may be mailed to owners and occupants of nearby or affected property.

(4) A copy of every notice of intent to prepare an environmental impact statement must be furnished to the Chief Counsel, Legislative, Law Department, who will have it published in the FEDERAL REGISTER.

(b) All notices must give the name, address, and telephone number of a postal official who may be contacted

for information. Environmental documents are made available to the public on request. Inspection, copying, and the furnishing of copies will be in accordance with 39 CFR Part 265, "Release of Information."

[44 FR 63525, Nov. 5, 1979, as amended at 47 FR 19992, May 10, 1982; 48 FR 29378, June 24, 1983. Redesignated and amended at 63 FR 45719, 45722, Aug. 27, 1998]

§ 775.14 Hearings.

(a) Public hearings must be held whenever there is:

(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 §§ 775.11(d)(1) and 775.13 must be complied with whenever a hearing is to be held.

[44 FR 63525, Nov. 5, 1979. Redesignated and amended at 63 FR 45719, 45722, Aug. 27, 1998]

PART 776—FLOODPLAIN AND WETLAND PROCEDURES

Subpart A—General Provisions

Sec.

776.1 Purpose and policy.

776.2 Responsibility.

776.3 Definitions.

Subpart B—Floodplain Management

776.4 Scope.

776.5 Review procedures.

776.6 Design requirements for construction.

776.7 Lease, easement, right-of-way, or disposal of property to non-federal parties.

Subpart C—Wetlands Protection

776.8 Scope.

776.9 Review procedures.

776.10 Lease, easement, right-of-way, or disposal of property to non-Federal parties.

AUTHORITY: 39 U.S.C. 401.

SOURCE: 64 FR 56254, Oct. 19, 1999, unless otherwise noted.

Subpart A—General Provisions

§ 776.1 Purpose and policy.

(a) The regulations in this part implement the goals of Executive Orders 11990, Protection of Wetlands, and 11988, Floodplain Management, and are adopted pursuant to the Postal Reorganization Act, as the Postal Service does not meet the definition of the term “agency” used in the Executive Orders.

(b) The Postal Service intends to exercise leadership in the acquisition and management of real property, construction of facilities, and disposal of real property, located in floodplains and wetlands. Consistent with the goals of the Executive Orders, the regulations in this part are not intended to prohibit floodplain and wetland development in all circumstances, but rather to create a consistent policy to minimize adverse impacts.

§ 776.2 Responsibility.

The appropriate Manager, Facilities Service Office, or functional equivalent within the Postal Service’s facilities organization, in conjunction with the appropriate Vice President, Area Operations, or functional equivalent within the Postal Service’s operations organization, are responsible for overall compliance with the regulations in this part pertaining to facilities projects. The Vice President, Area Operations, is responsible for compliance with these regulations for those projects within the Vice President’s delegated authority.

§ 776.3 Definitions.

Construction means construction, alterations, renovations, and expansions of buildings, structures and improvements.

Contending site means a site or existing building for a proposed postal facility action, which meets the requirements of the Postal Service as determined by the operations organization.

Facility means any building, appurtenant structures, or associated infrastructure.

Floodplain means the lowland and relatively flat areas adjoining inland and coastal waters including flood-prone areas of offshore islands, including, at

a minimum, that area subject to a one percent or greater chance of flooding in any given year (also known as a 100-year floodplain).

Practicable means capable of being accomplished within existing constraints. The test of what is practicable depends on the situation and includes consideration of many factors, such as environment, cost, technology, implementation time, and postal operational needs.

Preferred area means the specific geographical area proposed for a new postal facility, as developed by the operations organization within the Postal Service. A preferred area’s boundaries are unique for each proposed facility based on the operational and customer service needs of the Postal Service.

Preferred site means the most advantageous site for a proposed facility, taking into consideration postal operational and customer service needs, cost, and availability, as determined by the operations organization within the Postal Service.

Wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Subpart B—Floodplain Management

§ 776.4 Scope.

(a) The regulations in this subpart are applicable to the following proposed postal facility actions located in a floodplain:

(1) New construction, owned or leased; or

(2) Construction projects at an existing facility that would increase the amount of impervious surface at the site.

(b) These procedures are not applicable to the following postal facility actions:

(1) Those actions identified in paragraphs (a)(1) and (a)(2) of this section, when the entire preferred area, or all

United States Postal Service

§ 776.5

contending sites, for such actions lies within a floodplain;

(2) Incidental construction, such as construction of athletic fields, recreational facilities, sidewalks, and other minor alteration projects;

(3) Construction at existing postal facilities pursuant to the Architectural Barriers Act or postal accessibility standards;

(4) Any facility construction project deemed necessary to comply with federal, state, or local health, sanitary, or safety code standards to ensure safe working conditions;

(5) Construction of facilities that are functionally dependent on water, such as piers, docks, or boat ramps;

(6) Maintenance, repair, or renovation of existing facilities; or

(7) Leasing or other use of space for not more than one year.

§ 776.5 Review procedures.

Officials shall follow the decision-making process outlined in paragraphs (a) through (f) of this section, when a facility action may involve floodplain issues. Under certain circumstances, this process may be carried out with fewer steps if all objectives of the decision-making process can be achieved. A general principle underlying this process is that a postal facility action requiring construction in a floodplain may be considered only when there is no practicable alternative.

(a) *Analysis of alternatives.* If a postal facility action would involve construction in a floodplain, alternative actions shall be considered.

(b) *Early public notice.* If a facility action at the contending site(s) could require construction in a floodplain, public notice must be provided.

(c) *Floodplain location and information.* (1) Personnel shall determine whether construction would occur within a floodplain. The determination shall be made by reference to appropriate Department of Housing and Urban Development (HUD) floodplain maps (sometimes referred to as Floodplain Insurance Rate Maps (FIRM)), or Federal Emergency Management Agency (FEMA) maps, or more detailed maps if available. If such maps are not available, floodplain location must be

determined based on the best available information.

(2) Once the preferred site has been identified, potential floodplain impacts must be determined. As part of this determination process, specific floodplain information should be developed, which is to consider:

(i) Whether the proposed action will directly or indirectly support floodplain development;

(ii) Flood hazard and risk to lives and property;

(iii) Effects on natural and beneficial floodplain values, such as water quality maintenance, groundwater recharge, and agriculture; and

(iv) Possible measures to minimize harm to, or impact on, the floodplain.

(d) *Reevaluation.* After the above steps have been followed, if the determination is that there appears to be no practicable alternative to constructing in a floodplain, a further review of alternatives must be conducted by the facilities organization in conjunction with the operations organization requesting the construction of the facility. The further review of alternatives must be conducted by the operations organization for projects within the delegated authority of the Vice President, Area Operations.

(e) *Final public notice.* As a result of the reevaluation, if it is determined that there is no practicable alternative to constructing in a floodplain, public notice shall be provided as soon as possible for the proposed action. The notice should be publicized and should include:

(1) Identification of the project's location;

(2) Provision for a 30-day public commenting period before irrevocable action is taken by the Postal Service; and

(3) Name and complete address of a postal contact person responsible for providing further information on the decision to proceed with a facility action or construction project in a floodplain. Upon request, that person shall provide further information as follows:

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

(ii) A listing of alternative actions considered in making the determination; and

§ 776.6

39 CFR Ch. I (7–1–12 Edition)

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

(f) *Distribution.* The above public notice will be sent to appropriate officials, local newspapers, and other parties who express interest in the project.

(g) *NEPA coordination.* If either an Environmental Impact Statement or an Environmental Assessment is required under the Postal Service's National Environmental Policy Act (NEPA) regulations, the above review procedures must be incorporated into and evaluated in that document.

§ 776.6 Design requirements for construction.

If structures impact, are located in, or support development in a floodplain, construction must conform, at a minimum, to the standards and criteria of the National Flood Insurance Program (NFIP), except where those standards are demonstrably inappropriate for postal purposes.

§ 776.7 Lease, easement, right-of-way, or disposal of property to non-federal parties.

When postal property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-federal public or private parties, the Postal Service shall:

(a) Reference in the conveyance document that the parcel is located in a floodplain and may be restricted in use pursuant to federal, state, or local floodplain regulations; or

(b) Withhold the property from conveyance.

Subpart C—Wetlands Protection

§ 776.8 Scope.

(a) The regulations in this subpart are applicable to the following proposed postal facility actions located in a wetland:

(1) New construction, owned or leased; or

(2) Construction projects at an existing facility that would alter the external configuration of the facility.

(b) These procedures are not applicable to the following postal facility actions:

(1) Construction of foot and bike trails, or boardwalks, including signs, the primary purposes of which are public education, interpretation, or enjoyment of wetland resources;

(2) Construction at existing postal facilities pursuant to the Architectural Barriers Act or postal accessibility standards;

(3) Any facility construction project deemed necessary to comply with federal, state, or local health, sanitary, or safety code standards to ensure safe working conditions;

(4) Construction of facilities that are functionally dependent on water, such as piers, docks, or boat ramps; or

(5) Maintenance, repair, or renovation of existing facilities.

§ 776.9 Review procedures.

(a) *Early public notice.* If a facility action at the contending site(s) could require construction in a wetland, public notice must be provided.

(b) *Finding of no practicable alternative.* The Postal Service shall avoid construction located in a wetland unless it issues a finding of no practicable alternative. The facilities organization, in conjunction with the operations organization, or, for projects within the delegated authority of the Vice President, Area Operations, the operations organization, shall make a written determination that:

(1) There is no practicable alternative to such construction; and

(2) The proposed action includes all practicable measures to minimize harm to wetlands.

(c) *NEPA coordination.* If either an Environmental Impact Statement or an Environmental Assessment is required under the Postal Service's National Environmental Policy Act (NEPA) regulations, the above review procedures must be incorporated into and evaluated in that document.

§ 776.10 Lease, easement, right-of-way, or disposal of property to non-federal parties.

When postal-owned wetlands or portions of wetlands are proposed for lease, easement, right-of-way, or disposal to non-federal public or private parties, the Postal Service shall:

United States Postal Service

§ 776.10

(a) Reference in the conveyance document that the parcel contains wetlands and may be restricted in use pur-

suant to federal, state, or local wetlands regulations; or

(b) Withhold the property from conveyance.