



## 613 FW 2, Wetland Protection (EO 11990)

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**2.1 Purpose.** This chapter provides general policy and procedural guidance for all Fish and Wildlife Service (Service) personnel concerning compliance with Executive Order 11990, Protection of Wetlands.

### **2.2 Scope.**

**A.** This chapter is applicable to all Service actions, including technical assistance and grants, that may result in the construction, maintenance, rehabilitation or installation of structures and facilities and all real estate transactions, that are in or could potentially affect wetlands.

**B.** This chapter also applies to the Services responsibilities in consulting and commenting about other agencies' actions affecting wetland habitats pursuant to the Fish and Wildlife Coordination Act and the National Environmental Policy Act.

### **2.3 Authorities.**

**A. Executive Order 11990**, as amended, Protection of Wetlands, May 24, 1977.

**B. Floodplain Management and Wetland Protection Procedures**, June 11, 1979 (520 DM 1).

### **2.4 Requirements.**

**A.** The basic requirement of E.O. 11990 is that a Federal agency avoid construction or management practices that would adversely affect wetlands unless that agency finds that (1) there is no practicable alternative, and (2) the proposed action includes all practicable measures to minimize harm to the wetlands.

**B.** Executive Order 11990 directs all Federal agencies to minimize the destruction, loss, or degradation of wetlands; and preserve and enhance the natural beneficial values of wetlands in the conduct of the agency's responsibilities for:

- (1) acquiring, managing, and disposing of Federal lands and facilities;
- (2) providing Federally undertaken, financed, or assisted construction and improvements; and
- (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

**C.** Executive Order 11990 does not apply to the issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property. These actions are, however, covered by other Federal statutes and regulations.

**D.** To demonstrate compliance with the Executive Order, the agency must address the two provisos in [paragraph A](#) above, provide opportunity for early public review by those who may be affected (see [2.3B](#)), and include its findings in its environmental or other appropriate decision documents.

## **2.5 Technical Terms.**

**A. Action.** Any Federal activity including:

- (1) Acquiring, managing, and disposing of Federal lands and facilities,
- (2) Providing Federally undertaken, financed, or assisted construction and improvements, and
- (3) Conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

**B. Channel.** A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water.

**C. Construction.** The draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities.

**D. Facility.** Any human-made or human-placed item other than a structure.

**E. Minimize.** The reduction to the smallest possible amount or degree.

**F. Natural and Beneficial Values.** Wetlands in their natural or relatively undisturbed state serve water resources values (e.g., natural moderation of floods, water quality maintenance, and groundwater recharge), living resources values (e.g., fish, wildlife, and plant species), and cultural resources values (e.g., open space, archaeological, historical natural beauty, scientific study, outdoor education, and recreation).

**G. Practicable.** Capable of being done within existing constraints. The test of what is practicable depends on the situation and includes consideration of the pertinent factors, such as environment, cost, or technology.

**H. Restore.** To reestablish a setting or environment in which the natural functions of the wetland can again operate.

**I. Structures.** Walled or roofed buildings, including mobile homes and gas or liquid storage tanks that are primarily above ground.

**J. Wetlands.** Those areas which are inundated or saturated by surface or groundwater with a frequency sufficient to support or that under normal hydrologic conditions does or would support, a prevalence of vegetation or aquatic life typically adapted to saturated or seasonally saturated soil conditions. Examples of wetlands include, but are not limited to swamps, fresh and salt water marshes, estuaries, bogs, beaches, wet meadows, sloughs, potholes, mud flats, river overflows, and other similar areas. This definition of wetlands is intended to be consistent with the definition utilized by the Service in the 1979 publication by Cowardin, et al., *Classification of Wetlands and Deep Water Habitats of the United States* (See 600 FW 2).

**2.6 Policy.** The Service will comply with E.O. 11990 and its implementing guidance on the protection of wetlands, and will advise Federal agencies of their responsibility to evaluate the potential effects of any actions they may conduct or authorize in a wetland. As part of its actions, the Service will:

**A.** Avoid adverse effects caused by the human modification or occupancy of wetlands.

**B.** Avoid support of wetland development whenever there is a practicable alternative.

**C.** Restore, preserve, and enhance the natural and beneficial values served by wetlands.

**D.** Include any appropriate wetlands references or restrictions in conveyances of property proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties.

**E.** Use an integrated process to involve the public in the planning of all actions.

**F.** Monitor Federal actions undertaken, funded or permitted to ensure that they are carried out in accordance with EO 11990. The Service's review of other Federal agency proposals will address the basic requirements of this Executive Order when the proposed actions on wetlands may affect aquatic invertebrates, migratory birds, threatened and endangered species, candidate species, and other fish, wildlife, and plant species and their habitats subject to the jurisdiction of the Service.

**G.** Ensure all Service personnel, when working with other agencies and the public, advocate compliance with the spirit and intent of EO 11990.

**2.7 Responsibility.**

**A. Field Offices.** Field Supervisors are directly responsible for assuring that all actions under their purview are planned, approved and implemented in full compliance with the Executive Order and this chapter.

**B. Regional Offices.** Regional Directors are directly responsible for assuring that all actions under their purview are planned, approved and implemented in full compliance with the Executive Order and this chapter.

**C. Headquarters.** The Director is responsible for overall Service compliance with the Executive Order and this chapter. Each Assistant Director is responsible for policy guidance and compliance in their respective areas of responsibility.

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**For additional information regarding this policy, contact the Division of Habitat Conservation. For more information about this Web page, contact [Krista Bibb](#), in the Division of Policy and Directives Management.**

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