Executive Order 13690 and the New Federal Flood Risk Management Standard

On January 30th, President Obama issued Executive Order (EO) 13690 that revises Executive Order 11988 and proposes a new Federal Flood Risk Management Standard (FFRMS).

"Since the issuance of Executive Order 11988 38 years ago, we as a nation have learned a lot about floodplain management and flood risk," ASFPM Executive Director Chad Berginnis said. "The changing nature of flood risk, including increased risks due to sea level rise, demands competent standards that will withstand the test of time and the forces of nature. And we think the new EO and FFRMS is a great step in the right direction."

Elements of EO 13690 and the FFRMS

The EO and new standard would apply to federal actions such as federal grants used for repair and redevelopment after a natural disaster. In fact, the definition of federal actions to which the EO would apply is unchanged from EO 11988. The FFRMS gives agencies the flexibility to select one of three approaches for establishing the flood elevation and hazard area they use in siting, design, and construction. They can:

- Use data and methods informed by best-available, actionable climate science;
- Build two feet above the 100-year (1%-annual-chance) flood elevation for standard projects, and three feet above for critical buildings like hospitals and evacuation centers; or
- Build to the 500-year (0.2%-annual-chance) flood elevation.

Other elements of the EO include a directive for agencies to use, where possible, natural systems, ecosystem processes and nature-based approaches when developing alternatives for consideration. Also, the new EO specifies that it is the policy of the United States to improve the resilience of communities and Federal assets against the impacts of flooding and recognizes the risks and losses due to climate change and other threats.

One of new elements of the FFRMS is the application of the new standard outside of the mapped floodplain, especially where the freeboard approach is used. We also know significant flood losses occur outside of the FEMA-mapped floodplain. Mother Nature simply does not recognize our flood mapping boundaries, and the FFRMS would require applying the freeboard when determining *where* the standard applies. At the same time for the floodplain manager, this is nothing new. Floodplain managers, on a daily basis, utilize the base flood elevation versus to regulate development activity, regardless if the mapped floodplain boundary shows something different.

In addition to the release of the new EO and FFRMS, draft flood risk management standard implementation guidelines were released. Information about the FFRMS has been incorporated into the guidelines to aid agencies in development of their revised or new procedures and to promote consistency among agencies. The guidelines are also advisory. To the extent permitted by law and consistent with their statutory authority, each agency shall draft or update their own rules and regulations to be consistent with EO 13690. The guidelines call for a 30 day timeframe after the close of the public comment period to develop an implementation plan for updating their procedures. "After Executive Order 11988 was issued in 1977, the Water Resources Council issued implementing guidelines for agencies to assist with incorporating the standards of the EO into their policies, procedures, and

programs. The new guidelines amends that older document, and will be of great assistance to agencies as they incorporate the new FFRMS" says Berginnis.

Process

A federal interagency coordinating group that deal with floodplain management issues– the Mitigation Framework Leadership Group (MIT-FLG) – had been working on the new standard for well over a year. This interagency team includes agencies such as the Corps of Engineers, FEMA, NOAA, HUD, Transportation, and the Department of Agriculture (which includes NRCS). Essentially all of the federal departments containing the nation's water resources agencies – such as those that oversee and construct dams and levees – were at the table. These agencies have some of the nation's leading experts and institutes that deal with flooding and water resources. The FFRMS was developed as a consensus standard among these agencies.

Concurrent with the development of the standard, the views of elected state and local officials were solicited and considered during the development of the standard. The consensus standard that emerged was very similar to the one recommended by 26 governors, mayors, county officials and tribal leaders in the State, Local and Tribal Leaders Task Force on Climate Preparedness and Resilience report issued this past November.

Now that the EO, FFRMS and guidelines have been issued, a 60 day public comment period on the guidelines has kicked off. Written comments are being solicited until April 6th. In addition, four public listening sessions have been scheduled: March 3 – Ames, Iowa; March 5 – Biloxi, Mississippi; March 11 – Mather, California and Norfolk, Virginia. After the public comment period has ended and the revised guidelines are issued, agencies will begin the process of updating their procedures to incorporate the new EO and FFRMS standard. In many cases, this will trigger the need to do rulemaking which will be subject to another round of public input. Only after the agencies have incorporated the new EO and FFRMS will floodplain management professionals see its implementation on the ground.

At the end of the day, the new FFRMS is good for the country. "The nation cannot afford to continue to pay for larger and larger flood disasters. The proposed Federal Flood Risk Management Standard is a common sense approach to that will increase the nation's resiliency and reduce future taxpayer costs for flood response." says ASFPM Chairman Bill Nechamen.

ASPFM has created an FFRMS resource page, which you can see here.