



Executive Order 73

WHEREAS, a significant portion of the State's land resources is subject to recurrent flooding by overflowing of streams, lakes and other watercourses threatening life and causing loss of property, disruption of commerce and governmental services, unsanitary conditions and interruptions of transportation and communication, all of which are detrimental to the health, safety, welfare and property of the occupants of flooded lands and the people of the State; and

WHEREAS, the public interest necessitates sound land use development as land is a limited and irreplaceable resource, and the floodplains of the State are a land resource to be used in a manner which will result in minimum loss of life or threat to health or water quality and in minimization of private and public economic loss caused by flooding; and

WHEREAS, the State's Floodplain Management program is designed to protect life, health and property, minimize expenditures of public monies for costly flood control projects, minimize the need for rescue and relief efforts undertaken at the expense of the general public, minimize business interruptions, minimize damage to public facilities (such as watermains, sewer lines, streets and bridges), minimize the occurrence of future flood blight areas and discourage the victimization of unwary land and home buyers; and

WHEREAS, the State government has extensive and continuing programs for the construction of buildings and other facilities and provides financial assistance to local governmental units and private concerns for development of similar facilities, all of which activities significantly influence patterns of residential, commercial and industrial development; and

WHEREAS, the location of critical use facilities (hazardous facilities, hospitals, prisons, nursing homes, emergency and rescue and relief facilities) in a flood hazard area creates special problems and should be avoided at all times; and

WHEREAS, the federal government has programs to provide state and local financial assistance and whereas the availability of federal loans and mortgage insurance and land use planning programs are determining factors in the utilization of lands; and

WHEREAS, the nonfederal cost sharing for disaster aids is increasing and the State needs to minimize, with a goal to eventually eliminate, the amount of State funds associated with development in a floodplain; and

WHEREAS, the evaluation of flood hazard associated with State-owned or leased, State-insured, State-assisted, or State-regulated development and other facilities is an essential element of the State's floodplain Management program

NOW THEREFORE, by virtue of the authority vested in me as Governor of the State of Wisconsin, IT IS HEREBY ORDERED as follows:

The heads of all State agencies and all other agencies listed in Chapter 20 of the Wisconsin Statutes, shall provide leadership to encourage a broad and unified effort to prevent the uneconomic use and development of the floodplains of the State, to discourage further development in floodplain areas, to ensure consistency in State activities with the rules and regulations regarding land use and floodplain development and management, and in particular, to lessen the risk of flood losses related to State-owned or leased lands and installations and State-insured or supported or regulated improvements.

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LEGISLATIVE REFERENCE
BUREAU



Specifically:

- (1) Prior to seeking appropriations for the construction or rental of a facility which will be owned or leased by the State, the state agency which will use the facility is responsible for having a **SITE EVALUATION** performed (e.g., in-house, contracting with a consultant, developing an agreement with Department of Natural Resources for evaluation) to determine whether the facility would be located within the 500-year floodplain. The state agency shall document the fact that a site evaluation was conducted and results of the evaluation. Each state agency shall inventory the existing facilities it uses an document those facilities located in a floodplain within six months after the date of this executive order. Each agency shall submit a copy of the inventory to the Department of Administration and to the Department of Natural Resources.
- (2) Any state agency proposing to construct a new facility or an addition to an existing facility or to modify an existing facility which will be or is located in the 500-year floodplain is responsible for undertaking and documenting the "**EIGHT-STEP DECISION PROCESS**" analysis outlined in attachment A, unless the modification to the existing facility constitutes routine repair and maintenance to the facility or consists of nonstructural modifications to the facility which over the life of the facility cumulatively amount to less than five percent of the total value of the facility. Routine repair and maintenance includes internal and external painting, decorating, paneling, carpeting, relocation of nonload-bearing internal walls, and the replacement of doors, windows, and other nonstructural components of a building. The total value of a facility is determined by its present market value. The value should be consistent with established values on an insurance inventory or on a current Department of Administration facilities list.
- (3) Facilities, including additions to existing facilities, which will be owned or leased by the State may not be constructed in a 100-year floodplain unless there is **NO PRACTICABLE ALTERNATIVE**. Critical use facilities (such as hospitals, nursing homes, emergency and rescue or relief facilities, prisons, or other activities for which flooding may cause an unacceptable risk) which are or will be owned or leased or funded, partially or entirely, by the State may not be constructed in a 500-year floodplain unless there is **NO PRACTICABLE ALTERNATIVE**. Furthermore, a facility which will be owned or leased by the State may not be constructed in a floodway unless the facility is water-dependent (e.g., boat launching ramp or dock).
- (4) Facilities owned or leased by the State which are or will be located in a floodplain shall be constructed in accordance with the most restrictive of any **DEVELOPMENT STANDARDS** contained in state law (chapter NR 116, Wis. Adm. Code), local ordinance, or this executive order.
- (5) No state agency which uses a nonwater dependent **NONCONFORMING FACILITY LOCATED IN A FLOODWAY** may change the use of the facility, authorize the construction of an addition to the facility, or undertake improvements to the facility (except routine maintenance or repair) which cumulatively over the life of the facility amount to more than 25 percent of its total value.
- (6) No state agency which uses a **NONCONFORMING FACILITY LOCATED IN A FLOOD FRINGE** may change the use of the facility or authorize the construction of an addition to the facility. No state agency may undertake modifications to a facility in a flood fringe (except routine repair and maintenance) which cumulatively over the life of the facility amount to more than 25 percent of its total value unless the entire facility is made



to conform to the more restrictive of any development standards in state law (chapter NR 116, Wis. Adm. Code) or local ordinance. All modifications to a facility in a flood fringe shall conform to the more restrictive of any development standards in state law (chapter NR 116, Wis. Adm. Code) or local ordinance and shall be consistent with the provisions of the mitigation plan for the facility prepared under this executive order.

- (7) Each state agency is responsible for ensuring that all State-owned or leased facilities which it uses are **INSURED BY A POLICY OR A CERTIFIED SELF-INSURANCE PROGRAM** which meets the standards of the national flood insurance program and which is in effect for the useful life of the facility. Each state agency shall document the insurance status of new facilities prior to using the facilities and shall document the insurance status of all existing facilities within one year after the date of this executive order. Agencies shall submit the documentation to the Department of Administration.
- (8) Each state agency is responsible for developing a **FLOOD PREPAREDNESS AND EVACUATION PLAN** for each facility used by the agency which is or will be located in a floodplain and for submitting the plan to the Division of Emergency Government and the Department of Natural Resources. A flood preparedness and evacuation plan shall be developed for each new facility located in a floodplain prior to the time the state agency uses the facility. A flood preparedness and evacuation plan shall be developed by the agency for each existing facility it uses in a floodplain within 18 months after the date of this executive order. The Division of Emergency Government, in consultation with the Department of Natural Resources, shall develop criteria for state agencies to use in the development of flood preparedness and evacuation plans within six months after the date of this executive order.
- (9) Each state agency is responsible for developing a **FLOOD DAMAGE MITIGATION PLAN** (including both pre-disaster - floodproofing or relocation - and post disaster treatment) for each facility used by the agency which is or will be located in a floodplain and for submitting the plan to the Department of Natural Resources and the Division of Emergency Government. A flood damage mitigation plan shall be developed for each new facility located in a floodplain prior to the time the state agency uses the facility. A flood damage mitigation plan shall be developed by the agency for each existing facility it uses in a floodplain within 18 months after the date of this executive order. The Department of Natural Resources, in consultation with the Department of Administration and the Division of Emergency Government, shall develop and publish criteria for state agencies to use in the development of flood damage mitigation plans within six months after the date of this executive order.
- (10) Each state agency shall review its **REGULATORY AND FINANCIAL ASSISTANCE PROGRAMS** and consider the implementation of actions to achieve floodplain management objectives in those programs, including the disclosure of the location of projects with respect to floodplains, compliance with development standards for projects in floodplains, and flood insurance requirements;
- (11) A **FLOOD HAZARD INTERAGENCY COORDINATING COMMITTEE** shall be formed within four months after the effective date of this executive order consisting of a representative of each state agency listed in Chapter 20 of the Wisconsin Statutes and chaired by the Department of Natural Resources. The interagency coordinating committee shall serve as the principal body to evaluate the implementation of this executive order and to resolve issues of mutual concern to all state agencies about floodplain management. The interagency coordinating committee shall:

The State of Wisconsin

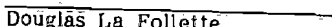


- a) Develop and publish guidelines for the implementation of this executive order within one year after the effective date of this executive order, including guidelines for rule revision and procedural changes required of state agencies.
 - b) Periodically evaluate the Operating effectiveness of the guidelines in achieving the objectives of this executive order and make necessary improvements to the guidelines; and
 - c) Recommend to the Governor any legislation needed to implement the objectives of this executive order, including legislation to set a specific limit on the percentage of State funding to cover the nonfederal share of post-flood damage costs.
- (12) Each state agency shall IMPLEMENT THE OBJECTIVES of this executive order in all agency actions affecting development in floodplains. Each state agency shall:
- a) Revise the agency's administrative rules and procedures to reflect the objectives of this executive order;
 - b) Outline, within six months after the effective date of this executive order, the steps the agency plans to take to implement this executive order; and
 - c) File a report with the interagency coordinating committee within 12 months after the effective date of this executive order and every two years thereafter, detailing the actions the state agency has taken to implement this executive order and the implementing actions the agency plans to take within the succeeding two years.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed Done at the Capitol of the City of Madison this day, April 29, 1985


Anthony S. Earl
Governor

By the Governor:


Douglas La Follette
Secretary of State