



Mississippi Flood of 1993

The White House is considering a new executive order to limit floodplain development. The proposal covers roughly the same federal licensing, project, and funding decisions as NEPA. The heart of the proposal is section 4, which unlike NEPA imposes a substantive requirement (preventing or mitigating floodplain development.) The proposed language is after the jump. This is a very constructive step — we can't keep putting people and infrastructure in harm's way, nor can we allow development that increases flood risks elsewhere.

The Association of State Flood Plains Managers has a very helpful [website](#). Information about flood issues can also be found in Berkeley's [archive](#) on disasters and the law.

Here's the proposed language of section 4:

(a) Identify floodplains

Before taking a covered action, an agency must determine whether that action will occur in or adversely affect a floodplain or is a critical action. The agency shall use Federal Emergency Management Agency's (FEMA) floodplain information, including maps and Flood Insurance Studies, to make its determination. If the Agency determines that it needs additional information or if FEMA's information is not available for the area or is insufficiently detailed, the Agency should look elsewhere for scientifically credible information, or develop the information itself.

If the covered action is not in or does not adversely affect a floodplain, the covered action is not subject to the remaining requirements of this Order.

(b) Identify and evaluate practicable alternatives.

If an agency determines that its covered action is in a floodplain or adversely affects a floodplain, the agency must fully evaluate practicable alternatives that include:

- (1) Using other sites outside the floodplain that would not adversely affect a floodplain.
- (2) Taking other actions that serve essentially the same purpose as the proposed covered action but that are not in a floodplain or would not adversely affect a floodplain.
- (3) Taking no action.

If the Agency revises its covered action to avoid any action in or that would

adversely affect a floodplain, the covered action is not subject to the remaining requirements of this Order.

(c) Identify and mitigate effects

If after evaluation of practicable alternatives, the Agency proposes to take covered actions in or that adversely affects a floodplain, the agency shall:

(1) Give the public a chance to comment on the proposed covered action in accordance with Section 8(a) (1)-(3).