



State of North Carolina

ROY COOPER

GOVERNOR

July 25, 2022

EXECUTIVE ORDER NO. 266

UPDATING THE NORTH CAROLINA UNIFORM FLOODPLAIN MANAGEMENT POLICY FOR STATE CONSTRUCTION

WHEREAS, the National Flood Insurance Program, incorporated at 42 U.S.C. § 4001 *et seq.*, authorizes the establishment of floodplain management regulations applicable to state-owned properties; and

WHEREAS, North Carolina's Uniform Floodplain Management Policy was established by Executive Order No. 31, issued by Governor James B. Hunt, Jr. in 1979, and was subsequently amended by Executive Order No. 123, 5 N.C. Reg. 724-736 (September 4, 1990), issued by Governor James G. Martin; and

WHEREAS, the Uniform Floodplain Management Policy provides for the sound management of state-owned properties as they relate to potential flood hazards; and

WHEREAS, the frequency and intensity of hurricanes and severe storms, riverine and estuarine flooding, saltwater intrusion and rising ground water have greatly increased since 1990; and

WHEREAS, avoiding new construction within the floodplain where feasible and adopting resilient development policies and construction practices where construction within the floodplain cannot be avoided will reduce loss of critical state infrastructure and services during a flooding event; prevent costly repairs of damage from floodwaters; minimize the impact of floods on human safety, health, and welfare; and restore and protect the natural and beneficial values served by floodplains; and

WHEREAS, floodplain maps based upon historic information do not always accurately reflect current flood risk or flood risk based upon future conditions, including climate change and sea level rise, and state projects should be planned with a holistic understanding of flood risk; and

WHEREAS, the 2020 North Carolina Climate Risk Assessment and Resilience Plan recommends that when state infrastructure components cannot feasibly be constructed outside the floodplain, the state evaluate the implication of increased risk associated with changes in climate patterns and adapt development policies and construction techniques to minimize the detrimental impacts related to increased levels of risk; and

WHEREAS, accordingly, the undersigned, in consultation with the North Carolina Department of Administration ("NCDOA"), has determined that the Uniform Floodplain Management Policy be updated to reflect current flood risks and projected flood risk, as well as contemporary standards; and

WHEREAS, this Executive Order directs NCDOA and other state agencies to update the Uniform Floodplain Management Policy within eighteen (18) months of this Executive Order; and

WHEREAS, pursuant to Article III of the North Carolina Constitution and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the state and is responsible for formulating and administering the policies of the executive branch of state government; and

WHEREAS, pursuant to N.C. Gen. Stat. § 147-12, the Governor has the authority and the duty to supervise the official conduct of all executive and ministerial officers.

NOW, THEREFORE, by the authority invested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. North Carolina Uniform Floodplain Management Policy

NCDOA, in consultation with the North Carolina Department of the Environmental Quality (“NCDEQ”), the North Carolina Department of Transportation (“NCDOT”), and the North Carolina Department of Public Safety’s Emergency Management Division (“NCEM”) and the Office of Recovery and Resiliency (“NCORR”), and any other relevant state agencies, shall update the North Carolina Uniform Floodplain Management Policy (“Policy”) within eighteen (18) months of this Executive Order. This updated Policy shall replace the current Policy when approved and signed by the Secretary of NCDOA.

The updated Policy shall be developed with public stakeholder input and designed to achieve the following objectives for state-owned construction: comprehensively assess and mitigate risks for state construction; minimize flood damage to state-owned assets, considering the impacts of sea level rise and climate change; and support natural hydrologic conditions and the beneficial services provided by natural infrastructure.

To help achieve these objectives, the updated Policy shall include a flood risk management review process and flood resilience standards for state construction. In particular, the updated Policy will address, but not be limited to, the following topics:

- a. Establish processes and criteria for determining whether a proposed state construction project is subject to the Policy;
- b. Establish a process for determining whether construction is proposed in a floodplain or other area with flood risk, including coastal or inland flood risk, and the degree of risk presented;
- c. Implement measures to reduce construction in a floodplain to the greatest extent feasible;
- d. Set reasonably protective and cost-effective flood resilience standards for proposed construction within and outside of a floodplain, based upon flood risk over the lifetime of the construction; and
- e. Provide standards, options, and considerations for including nature-based infrastructure to reduce flood risk.

Section 2. State-Funded Construction

NCDOA, in consultation with NCDEQ, NCDOT, NCEM, NCORR, and other relevant state agencies and stakeholders, shall analyze the effect of expanding the requirements of the Policy beyond state-owned construction to also include state-funded construction. This analysis shall evaluate the legal, financial, environmental, and regulatory implications of such an expansion. The analysis also shall address the financial impact to the state of not applying the Policy to state-funded construction, including losses reasonably anticipated due to flooding. NCDOA shall publish the analysis within eighteen (18) months of this Executive Order. Additionally, NCDOA shall include provisions in the updated Policy that expand the Policy to state-funded construction to the extent feasible and permitted by law.

Section 3. Effect and Duration

This Executive Order is effective immediately and shall remain in effect unless rescinded or replaced with a superseding Executive Order. Upon approval and signature by the Secretary of NCDOA, the Policy will replace in its entirety and supersede the policy adopted in Executive Order No. 123. Effective on the date of the signed updated Policy, Executive Order No. 123 is rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 25th day of 2022 in the year of our Lord two thousand and twenty-two.



Roy Cooper
Governor



ATTEST:



Rodney S. Maddox
Chief Deputy Secretary of State