

Introduction

When areas have been designated as special flood hazard areas on the community's Flood Hazard Maps also known as Flood Insurance Rate Maps (FIRMs) or Digital Flood Insurance Rate Maps (DFIRMs) and no base flood elevations (BFEs) or an identified floodway have been developed, communities are required to:

- Apply the provisions of 44 Code of Federal Regulations 60.3(b)(4). Subparagraph 60.3(b)(4) requiring that communities:

Obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source... [44 CFR 60.3(b)(4)]

Data obtained are to be used by communities as criteria for requiring:

- New construction and substantial improvements have their lowest floors elevated to or above the BFE (non-residential structures can also be flood-proofed to or above the BFE)
- Prohibition of any encroachments in a floodway that would result in any increase in flood levels during occurrence of the base flood discharge.

Data from a draft or preliminary Flood Insurance Study (FIS) constitute available data under 44 CFR 60.3(b)(4). FEMA Bulletin 1-98 provides guidance on the use of FEMA draft or preliminary FIS data as available data for regulating floodplain development.

NFIP Requirements: Use of Draft or Preliminary FIS Data

For Zone A:

Communities **are required** to use data from a draft or preliminary FIS as such data constitutes available data under 44 CFR 60.3(b)(4).

- As an important floodplain management tool for reducing flood damages in areas where a detailed FIS has **not** been conducted.
- A community is allowed discretion in using this data **only** to the extent that the technical or scientific validity of the data in the draft or preliminary FIS is questioned.
- When all appeals have been resolved and an Letter of Final Determination (LFD) has been issued, communities **are required** to use the BFE and floodway data since the data represents the best data available
- In Zone A areas, requiring reasonable utilization of BFE and floodway data is due to the absence of other BFE or floodway data and the need to protect new or substantially improved structures.
- Reasonable utilization is required until appeals are completed and the BFEs and/or floodway are incorporated into the local ordinance.
- FEMA's requiring "reasonable" utilization shows their statutory obligation to provide the public an opportunity to appeal the proposed elevation data.

If a community decides not to use the BFE or floodway data in the draft or preliminary FIS

because it is questioning the data through a valid appeal, the community must continue to ensure that buildings are constructed using methods and practices that minimize flood damages in accordance with the floodplain management requirements under 44 CFR 60.3(a)(3) and (4).

For Zones AE, A1-30, AH, AO, VE, and V1-30:

The NFIP floodplain management criteria **do not require** communities to use BFE and floodway data from a draft or preliminary Flood Insurance Restudy in Zones AE, A1-30, AH, AO, VE, and V1-30 in lieu of using the BFE and floodway data contained in an existing effective FIS and FIRM because:

- Communities are afforded the opportunity to appeal BFE data
- A presumption of validity is given to existing effective BFE data that has gone through the formal statutory appeals process and which has been adopted by the community.
- However, in cases where BFEs increase in the restudied area, communities have the responsibility to ensure that new or substantially improved structures are protected, particularly if the increases in BFEs are significant.
- FEMA can not mandate or require a community to use BFE and floodway data in a draft or preliminary FIS. as available data or to use the data at the time FEMA issues the LFD.
- FEMA encourages communities to reasonably utilize this information in instances where BFEs increase and floodways are revised to ensure that the health, safety, and property of their citizens are protected.

- In cases where BFEs decrease, the community should **not** use this information to regulate floodplain development until the LFD has been issued.

In communities where floodways **have not** been designated for all or some of the flooding sources, but BFEs have been provided, communities **are required** to apply the criteria at 44 CFR 60.3(c)(10). This provision requires that:

- Until a regulatory floodway is designated, **no new construction, substantial improvements, or other development shall be permitted unless** it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will **not** increase the water surface elevation of the base flood more than one foot at any point within the community. [44 CFR 60.3(c)(10)]

However, if a draft or preliminary FIS has designated floodways where none had previously existed, communities **should reasonably utilize** this data in lieu of applying the encroachment performance standard of 44 CFR 60.3(c)(10) since the data in the draft or preliminary FIS represents the best data available.

- By utilizing the floodway data from a draft or Preliminary FIS, communities avoid the expense of conducting the hydraulic analysis necessary to demonstrate compliance with 60.3 (c)(10).
- In addition, communities can minimize flood damages by ensuring that the flood carrying capacity of the floodway is preserved since obstruction of floodways can significantly increase potential flooding upstream.

For Zones B, C, and X:

The NFIP floodplain management criteria **do not require** the use of BFE and floodway data from a draft or preliminary FIS under 44 CFR 60.3(b)(4) for an area or areas within Zones B, C, or X on the community's FIRM that are being revised to Zone AE, A1-30, AH, AO, VE, or V1-30.

- While FEMA can not mandate or require a community to use the information contained in the draft or preliminary FIS pertaining to areas designated as Zone B, C, or X as available data or use the data at the time FEMA issues the LFD to the community, FEMA encourages communities to reasonably utilize this information to ensure that the health, safety, and property of their citizens are protected.

Ordinance Requirements: Adoption of the Data

For Zone A:

- When all appeals have been resolved and a notice of final flood elevation determination has been provided in a LFD, communities **are required** to use the BFE and floodway data for regulating floodplain development in accordance with 44 CFR 60.3(b)(4) since the data represents the best data available. This includes meeting the standards of Subparagraphs 60.3(c), (d), and/or (e). Communities **must** regulate floodplain development using the data in the FIS under Subparagraph 60.3(b)(4) until such time as the community has adopted the effective FIRM and FIS.

For Zones AE, A1-30, AH, AO, VE, V1-30, B, C, and X:

- Communities are given six months from the date of the LFD in which to adopt the revised FIS and FIRM.

- Floodplain management ordinances generally contain a section entitled "Basis for Establishing the Areas of Special Flood Hazard".
- If a community chooses to use BFE and floodway data from a preliminary FIS prior to the LFD being issued or use the data after a LFD is issued but before the effective date of the FIS and FIRM, it is advised that the community adopt this information before its use.

Insurance Implications

Zone A:

- Communities can use information from a draft or preliminary FIS for completing the Elevation Certificate in Zone A areas.
- Structures rated using BFE data from a draft or preliminary FIS will often qualify for significantly lower insurance rates than structures whose policies are rated without a BFE.

Zones AE, A1-30, AH, AO, VE, and V1-30:

- For flood insurance rating purposes, in Zones AE, A1-30, AH, AO, VE, or V1-30, new or substantially improved structures are rated based on the BFE and FIRM zone in effect on the date of construction until the revised FIRM becomes effective. This is the case regardless of whether the preliminary FIS indicates that the proposed BFEs will increase or decrease.
- If a community chooses to use proposed BFEs from a draft or a preliminary FIS for a new or substantially improved structure, the flood insurance rate is still based on the BFE and FIRM Zone in effect on the date of construction.

- Structures built utilizing preliminary BFE that is higher than the BFE in effect may result in a significantly lower flood insurance rate.
- Structures built to the proposed BFE that is lower than the BFE in effect may result in a significantly higher flood insurance rate. In this case, the insured will qualify for a premium pro rata refund once the revised FIRM is effective.

Zones B, C, and X:

- For flood insurance rating purposes, new or substantially improved structures are rated based on the FIRM Zone in effect (i.e., Zone B, C, or X) on the date of start of construction. If a community chooses to use proposed BFEs from a draft or preliminary FIS for a new or substantially improved structure, the flood insurance rate is still based on the FIRM Zone in effect (i.e., Zone B, C or X) on the date of construction.

Web Site Resources:

- Louisiana Mapping Project Web Site: www.lamappingproject.com
- FEMA Web site on Mapping: www.fema.gov//plan/prevent/fhm
- General information about flood insurance: www.FloodSmmart.gov

Other Resources:

Louisiana Mapping Project (LaMP) Call Center:
1-866-751-3989
Open Monday - Friday 9:00 am to 4:00 pm Central

For questions on flood policy coverage and rates call
1-800-427-4661

Reference:

Condensed from Floodplain Management Bulletin 1-98



Quick Reference Guide

Use of Flood Insurance Study (FIS) Data and Application of Preliminary DFIRMs as Available Data for Flood Hazard Areas

Ordinance Requirements For Adoption

Insurance Implications



FEMA