



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD:/TTY: 711
KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

DATE: May 16, 2016

TO: BOARD OF SUPERVISORS
COUNTY ADMINISTRATIVE OFFICER
INTERESTED PERSONS

FROM: COUNTY PLANNING DEPARTMENT

SUBJECT: **FEMA CCAMP/OPC STUDY - PRELIMINARY REVISED FLOOD MAPS**

On March 3, 2016, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) announced in a letter to your Board that the appeal period for the Preliminary Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) would begin on approximately March 17, 2016 and end after 90 days.

In response to this letter, Planning Department staff created a website with information for property owners who wish to view the proposed flood zone information, file an appeal of the proposed information, or learn more about the project. A link to that site is provided here: <http://www.sccoplanning.com/PlanningHome/Environmental/FloodInformation/FloodMapUpdate.aspx>

Additionally, Planning Department staff sent letters on April 15, 2016 to all affected property owners notifying them of the proposed map changes and directing them to the aforementioned website for more information. A copy of the letter is provided as Attachment A to this memo.

Your Board was first advised of FEMA's intent to include Santa Cruz County in the California Coastal Analysis and Mapping Project / Open Pacific Coast (CCAMP/OPC) Study in a letter dated January 14, 2011, provided as Attachment B. Since then, FEMA has continued to update Planning Department staff on project progress, holding several webinars and meetings with County staff. Planning Department staff also reviewed the digital draft data for the entire unincorporated coastline and submitted comments on the draft map to FEMA representatives prior to FEMA's distribution of the Preliminary FIRM and FIS. A timeline of milestones and events is provided as Attachment C.

The changes included in the Preliminary FIRM and FIS affect only the coastal areas and provide a more thorough analysis of Coastal Flood Hazards than the currently adopted maps. The Preliminary FIRM and FIS include 72 transect locations, while the current map data include only 13. Additionally, the Preliminary FIRM includes base flood elevations for the

entire coastline of Santa Cruz County, while the current map includes base flood elevations only for portions of the coastline in Aptos, Watsonville, and the cities of Santa Cruz and Capitola.

FEMA Floodplain Management Bulletin 1-98 (provided as Attachment D) states that Preliminary FIRM data can be considered as a source of best available data with regard to the determination of base flood elevations for permitting purposes in areas currently designated as Flood Zone A. Santa Cruz County Code Section 16.10.070(F)(10) regarding development in floodplains provides that *“when base flood elevation data are not provided in the flood insurance study, the Planning Director shall obtain, review, and reasonably utilize the best flood data available from Federal, State or other sources, as a basis for elevating residential structures and floodproofing nonresidential structures, to at least one foot above the base flood level”*.

Per FEMA Floodplain Management Bulletin 1-98, a community has discretion in using Preliminary FIRM data, if the technical or scientific validity of the data in the draft or preliminary FIS is questioned. It should be noted that the County has received questions about the preliminary FEMA work, because FEMA in many locations did not give value to existing seawalls and shoreline protection structures in its analyses.

Where staff has been provided sufficient data by property owners that reasonably questions the preliminary FIRM data with regard to a site-specific BFE, the subject development application will be processed utilizing the site-specific BFE provided by the property owner's technical professional. Where insufficient data has been provided for staff to determine whether a valid question may exist regarding preliminary FIRM data, the County expects to proceed with application review and the permitting process based upon using the preliminary FIRM data. Alternatively, property owners may submit an appeal of the data to FEMA and suspend County processing of their development application until the FEMA appeals process is complete.

The role of Planning Department staff in the FEMA appeals process is to accept and consolidate appeal data from the public and forward to FEMA for review. The appeal data requirements vary, depending on the nature of the appeal. A complete list of required data to be submitted by the appellant is provided in the FEMA publication *Criteria for Appeals of Flood Insurance Rate Maps, November 30, 2011*. A link to this document is posted on the County website at:

<http://www.sccoplanning.com/Portals/2/County/Planning/env/Flood%20Map%20Update/Appeals%20Criteria.pdf> . Supporting data may be submitted via hard copy or electronic files to the County's Floodplain Administrator, Antonella Gentile, who will transmit the appeal to FEMA staff. While the County does have an opportunity to provide comments in support of valid appeals, FEMA is solely responsible for the review and resolution of Preliminary FIRM and FIS appeals.

Once all appeals and comments have been addressed, FEMA will issue a Letter of Final Determination (LFD) and provide the final FIRM and FIS (with any resulting changes from appeals) to the County for adoption. The date of issuance of the LFD is not certain, as FEMA provides a comment period of 30 days following the date of appeal resolution before proceeding with the LFD, and extensions to this 30-day period can be granted with FEMA Headquarters approval.

After the LFD is issued, County Code Section 16.10.025 provides that the maps immediately take effect, as "all subsequent amendments and/or revisions are hereby adopted by reference and declared to be part of this chapter", and the new FIRM maps are then in effect and used as a basis for establishing the special flood hazard area.

All proposed development, as defined in Title 16.10, within FEMA Special Flood Hazard Areas must be designed utilizing the adopted effective FIRM data. Affected project types include new construction or reconstruction projects proposing improvements (cumulative over 5 years) with costs that exceed 50 percent of the market value of the structure. All building permits issued after adoption of the effective FIRM data must comply with the effective maps.

An important note for property owners implementing discretionary permits that were processed and approved utilizing site-specific BFE values that do not match the adopted effective FIRM data: The County will not be able to issue a building permit for substantial improvement (cumulative improvements whose value totals 50% or greater of the existing structure's value), even if it is consistent with an approved discretionary permit for the project, if it is out of compliance with the effective maps. As a condition of approval for any discretionary permits that involve BFEs that are subject to change due to the adoption of Preliminary FIRM as the final FIRM and effective BFE, the County will require that applicants record a Declaration of Geologic Hazards, Acceptance of Risk, and Liability Release on the subject parcel that recognizes the anticipated changes in the BFE for the property and potential that the project as reflected in the discretionary permit may not be able to be implemented if the final FEMA maps/BFEs are issued prior to issuance of a building permit for the subject project.

It should also be recognized that if a building permit for a new or substantially improved structure is issued prior to FEMA's issuance of the LFD, and a structure built that does not comply with the effective BFE data that is reflected on the final FIRM, the structure may be subject to a higher flood insurance rating, likely resulting in a higher-risk annual flood insurance premium if the property owner purchases flood insurance (voluntarily, or as required by mortgage lenders). Where a new FIRM shows that an existing property is at a greater risk for flooding than shown on the previous map, flood insurance rates for the property will likely increase, but homeowners may be able to save money by utilizing the NFIP Grandfather Rule which takes into account the effective FIRM maps at the time of home construction and existing flood insurance policies. Additional information regarding the NFIP Grandfather Rule may be found at:

http://www.floodsmart.gov/floodsmart/pages/flooding_flood_risks/grandfathering.jsp

The County also participates in the FEMA Community Rating System program, which requires extensive recordkeeping, flood hazard mitigation plan updates and outreach, in return for a flood insurance premium discount for participating property owners. The County of Santa Cruz current program rating results in a 10 percent discount on flood insurance premiums.

Sincerely,



Kathy M. Previsich
Planning Director

Attachment A: Notification Letter to Property Owners
Attachment B: Board CCAMP/OPC Notification from FEMA
Attachment C: FEMA CCAMP/OPC Timeline of Events
Attachment D: FEMA Floodplain Management Bulletin 1-98



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PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

April 15, 2015

«OWNER_NAME»
«OWNADDR»
«OWNCITY», «OWNSTATE» «OWNZIP»

Subject: Revised FEMA Flood Mapping that Affects Your Parcel
APN: «APN» Property Address: «SITNUMBER» «SITSTREET»

Dear Property Owner:

As you may already be aware, The Federal Emergency Management Agency (FEMA) has released Preliminary Flood Insurance Rate Maps (FIRMs) for **coastal areas** in Santa Cruz County. Our records indicate that your property is mapped at least partially within the revised Special Flood Hazard Area (SFHA). As part of these revisions, the base flood elevation (BFE) for your property will be updated. We have worked with our Geographic Information System Department to create an interactive map on which you can view both the current and proposed flood zone and base flood elevation for your property. The map can be viewed here:

<http://www.sccoplanning.com/PlanningHome/FloodMapUpdate/MapTool.aspx>

FEMA published a notification concerning the Preliminary FIRM appeal process in the Santa Cruz Sentinel and the Register-Pajaronian on or about March 10, 2016 and March 17, 2016. **The appeal period ends on June 17, 2016.** Please note that appeals must be based on scientific and/or technical data that supports a claim that the proposed flood elevation information is incorrect. For more information about appealing the maps, please visit:

<http://www.sccoplanning.com/PlanningHome/FloodMapUpdate/AppealInfo.aspx>

For structures located in the SFHA, flood insurance is required as a condition of federally-related financial assistance. This requirement is usually enforced by the mortgage lender. If your property was not previously mapped in a SFHA, you may be eligible for "grandfathering" to significantly reduce flood insurance rates if you purchase flood insurance prior to the maps being adopted by FEMA. We recommend that you contact your insurance agent or visit the following website for more information:

http://www.floodsmart.gov/floodsmart/pages/flooding_flood_risks/grandfathering.jsp

For additional information, please visit our website:

<http://www.sccoplanning.com/PlanningHome/FloodMapUpdate.aspx>

Sincerely,

Antonella Gentile, CFM
Floodplain Manager

ATTACHMENT A

U.S. Department of Homeland Security
1111 Broadway, Suite 1200
Oakland, CA 94607-4052



FEMA

cc: Bruce
John P
Kathy P
Nancy G

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COMMUNICATIONS SECTION

January 14, 2011

Mr. Mark Stone, Chair
Santa Cruz County Board of Supervisors
701 Ocean Street
Room 500
Santa Cruz, California 95060

RE: FEMA California Coastal Analysis and Mapping Project/Open Pacific Coast Study

Dear Mr. Stone:

Thank you for your participation in the National Flood Insurance Program administered by the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA). Under the Risk Mapping, Assessment, and Planning (MAP) program, Region IX has prioritized for fiscal year 2011 Flood Insurance Rate Map and Flood Insurance Study updates in support of the state of California for coastal analysis and mapping. This Program shifts focus from digital flood map production to new detailed engineering analysis and mapping of coastal and flooding sources in many of the flood-prone communities throughout Region IX.

A feature of the Risk MAP program in Region IX is the re-study of the populated coastline for the state of California's coastal counties and communities. The California Coastal Analysis and Mapping Project (CCAMP) / Open Pacific Coast (OPC) Study will involve over 1,200 miles of new coastal flood hazard mapping and base-flood elevation determinations. Under this initiative, many coastal communities will have coastal flood data and mapping updated for the first time in over 20 years. This study effort will improve the quality of the coastal data used for both floodplain management and planning purposes.

Santa Cruz County will be an important participant in the CCAMP / OPC Study. In the first phase of the re-study, we are compiling coastal data from each community along the open Pacific Ocean shoreline and adjacent inland floodplains. FEMA Region IX requests your support and assistance to identify local resources for coastal flood history, flood records, problematic flood-prone areas, topographic data, bathymetric data, beach erosion data, coastal storm/tsunami planning/mapping, and any other information that may be of importance when conducting the coastal re-study in your community. Geographic Information System (GIS) layers such as base maps, aerial photography, and land use information will be extremely useful as well. We appreciate the opportunity to partner with your community. Any data you provide will contribute significantly to an improved coastal flood mapping product which more accurately reflects your current flood risk.

Mr. Mark Stone
January 14, 2011
Page 2 of 2

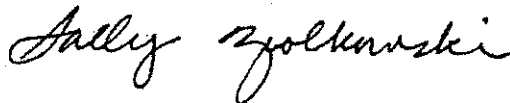
FEMA will facilitate an initial kick-off meeting to discuss the following:

- Nature and intent of the re-study
- Study schedule and milestones
- Potential obstacles that might impact the study effort and potential solutions
- Available flood hazard information that could be used or incorporated into this study effort
- Key points of contact within your community, FEMA Region IX, and the Risk MAP Production and Technical Services Contractor (BakerAECOM, LLC)

In the near future, we will contact your staff to establish an available date for the initial kick-off meeting, anticipated to occur in February 2011. Information will be provided at that meeting regarding how your community may benefit from the Risk MAP program and the CCAMP / OPC Study. Additionally, a new website has been developed to monitor the CCAMP / OPC Study online at www.r9coastal.org. This website allows each community to stay informed on the flood insurance re-study progress.

We look forward to working with the County of Santa Cruz on this multi-year coastal re-study mapping project. If you have questions about the CCAMP / OPC Study, you may contact Edward Curtis, Regional Engineer, at (510) 627-7207, or by e-mail at Edward.Curtis@dhs.gov. An alternate FEMA contact is Raymond Lenaburg, Risk Analysis Branch Chief, at (510) 627-7181, or by email at Raymond.Lenaburg@dhs.gov. An additional contact is Vince Geronimo, CCAMP / OPC Study Project Manager with BakerAECOM, at (510) 879-4533, or by email at Vince.Geronimo@aecom.com.

Sincerely,



Sally Ziolkowski, Director
Mitigation Division

cc: Antonella Gentile, Resource Planner / Floodplain Manager, Santa Cruz County
Senator Boxer, State Office
Senator Feinstein, State Office
Representative Anna Eshoo, District Office
Representative Sam Farr, District Office

ATTACHMENT B

FEMA CCAMP/OPC¹ Study
Santa Cruz County Timeline

Date	Event
January 14, 2011	FEMA issues letter to Board announcing Study and County participation
February 15, 2011	Kick-off Meeting presented by FEMA to County staff
November 29, 2012	Outreach Webinar for Coastal Community Officials - Tools and resources provided to County staff
February 28, 2013	CCAMP/OPC Webinar - Technical updates provided to County staff
November 13, 2014	Flood Risk Review Meeting - Preliminary results of study provided to County staff
February 19, 2015	30-day review period of draft maps begins - County staff carries out field checks along unincorporated coastline - Comments provided by County staff during review period
March 26, 2015	Coastal Resilience Workshop - Resources and guidance provided to County staff
September 28, 2015	Preliminary FIRM panels and Flood Insurance Study (FIS) provided to County BOS Chair, copied to Representatives for Districts 18 & 20
October 15, 2015	Preliminary FIRM/Consultation Coordination Officer (CCO) Meeting: City of Santa Cruz, City of Capitola, County of Santa Cruz Planning staff
March 3, 2016	FEMA issues letter to Board of Supervisors announcing public notice and appeal period
March 17, 2016	Appeal period begins (90 days)
April 15, 2016	Letters sent to affected property owners regarding Preliminary maps and appeal period
June 17, 2016	Appeal period ends
TBD	Letter of Final Determination (LFD) issued by FEMA

¹ California Coastal Analysis and Mapping Project/Open Pacific Coast



Use Of Flood Insurance Study (FIS) Data As Available Data

Floodplain Management Bulletin 1-98 provides guidance on the use of FEMA draft or preliminary Flood Insurance Study data as "available data" for regulating floodplain development. The bulletin includes:

- Introduction page 1
- Background 2
- NFIP Requirements: Use of Draft or Preliminary FIS Data . 2
- Ordinance Requirements: Adoption of Data 5
- Insurance Implications 7
- Further Information 8

Introduction

When areas have been designated as special flood hazard areas on the community's Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) 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) requires 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 that new construction and substantial improvements have their lowest floors elevated to or above the BFE (non-residential structures can also be floodproofed to or above the BFE) and for prohibiting any encroachments in a floodway that would result in any increase in flood levels during occurrence of the base flood discharge. The data obtained should be used as long as they reasonably reflect flooding conditions expected during the base flood, are not known to be scientifically or technically incorrect, and represent the best data available. Data from a draft or preliminary Flood Insurance Study (FIS) constitute available data under 44 CFR 60.3(b)(4). This bulletin provides guidance on the use of FEMA draft or preliminary FIS data as available data for regulating floodplain development.



Federal Emergency Management Agency
Mitigation Directorate and the
Federal Insurance Administration

FMB-1
1/98

ATTACHMENT D

Background

Flood Insurance Studies (FIS) use detailed hydrologic and hydraulic analyses to model the 1% annual chance flood event, determine BFEs, and designate floodways and risk zones (Zones AE, A1-30, AH, AO, VE, and V1-30). The flood hazard data are portrayed in tabular fashion in the FIS narrative and graphically as flood profiles that are attached to the narrative. They are portrayed planimetrically on the FIRM. Over 10,000 communities have now been provided detailed FISs and issued FIRMs that include BFEs for Zones AE, A1-30, AH, AO, VE, and V1-30.

A draft FIS can be prepared by a study contractor to FEMA under 44 CFR Part 66 or by appellants under 44 CFR Part 65 for the purpose of establishing or revising BFE and floodway data. FEMA reviews and modifies, as appropriate, the draft FIS to ensure it complies with established NFIP criteria. Once FEMA has reviewed and approved the draft FIS, FEMA releases the information to the public as a Preliminary FIS and FIRM for review and comment during a statutory 90-day appeal period in accordance with 44 CFR Part 67. Until such time as the 90-day appeal period is completed and a notice of final flood elevation determination [Letter of Final Determination (LFD)] has been provided, the BFE and floodway data in the FIS are considered preliminary and subject to change.

Due to the cost of developing detailed flood hazard data, not all floodplains can be studied using detailed methodologies. A primary factor FEMA uses in its system for prioritizing floodplain studies or restudies with BFEs and floodway data is whether the floodplains of the flooding sources are currently or are projected to be subject to development pressure. In NFIP communities where there are few existing buildings in the floodplain and minimal development pressure, FEMA does not prepare a detailed FIS. These communities are converted to the Regular Program with a FIRM in which all of the special flood hazard areas are designated Zone A without BFEs using approximate methodologies. Most NFIP communities will have FIRMs that include a combination of special flood hazard areas that have been studied in detail with BFEs and floodway data and special flood hazard areas that have been studied using approximate methods which have been designated Zone A.

National Flood Insurance Program (NFIP) Requirements: Use of Draft or Preliminary FIS Data

For Zone A:

For Zone A areas designated on the community's effective FHBM or FIRM, the BFE and floodway data from a draft or preliminary FIS constitute available data under Subparagraph 60.3(b)(4). The requirement at Subparagraph 60.3(b)(4) is an important floodplain management tool for reducing flood damages in areas where a detailed engineering study to develop BFEs and designate floodways on streams has not been conducted. Communities are required to reasonably utilize the data from a draft or preliminary FIS under the section of their ordinance that applies to this paragraph. 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 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 at 44 CFR 60.3(c), and (d) which includes the requirement that new construction, substantial improvements, and other development have their lowest floor elevated to or above the BFE (non-residential structures can also be floodproofed to or above the BFE). Communities must regulate floodplain development using the data in the FIS under 60.3(b)(4) until such time as the community has adopted the revised FIRM and FIS.

In Zone A areas, the rationale for requiring reasonable utilization of BFE and floodway data in a draft or preliminary FIS is premised on the absence of other BFE or floodway data and the need to protect new or substantially improved structures from flood damage until such time as appeals are completed and the BFEs and/or floodway are incorporated into the local ordinance. The use of the qualifier "reasonable" at 44 CFR 60.3(b)(4) reflects FEMA's 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 subparagraphs 60.3(a)(3) and (4).

- Subparagraph 60.3(a)(3) requires communities to review permit applications to determine whether proposed building sites are reasonably safe from flooding. If a proposed building site is floodprone, communities are to require that new construction and substantial improvements be adequately anchored, use flood resistant materials, be constructed to minimize flood damages, and have attendant utilities protected during the conditions of flooding.
- Subparagraph 60.3(a)(4) requires communities to review subdivision proposal and other proposed new development, including manufactured home parks or subdivisions, to determine whether proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is floodprone, communities are required to review such proposals to assure potential flood damages are minimized, utilities are constructed to minimize or eliminate damages, and adequate drainage is provided to reduce the exposure to flood hazards.

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

The NFIP floodplain management criteria do not require communities to use BFE and flood way 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 from a restudy in accordance with Section 1363 of the National Flood Insurance Act of 1968, as amended, 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. While 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 to the community, 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 or at least until all appeals have been resolved. If the draft or preliminary FIS provides information that BFEs are decreasing, but a valid appeal actually results in higher BFEs, the community could place its citizens at a greater flood risk by using the draft or preliminary FIS to regulate floodplain development. Also, these structures could be subject to increased flood insurance premiums.

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.

Important Note to Communities:

In order to participate in the NFIP, all communities must initially adopt a resolution or ordinance which expresses a "commitment to recognize and evaluate flood hazards in all official actions and to take such other official action as reasonably necessary to carry out the objectives of the program" [44 CFR 59.22(a)(8)]. This is in addition to the general requirement that the community "take into account flood hazards to the extent that they are known in all official actions relating to land management and use" [44 CFR 60.1(c)]. When communities receive a draft or preliminary FIS, communities have a responsibility to evaluate and prudently use this information for actions in the floodplain to ensure that the health, safety, and property of their citizens are protected. Neglecting to take into consideration the information provided in a draft or preliminary FIS and not taking reasonable actions to ensure the safety of lives and property may subject the community to potential liability when flooding occurs.

In the interest of sound floodplain management and to anticipate the impacts of future development on flood elevations, communities also can, at their discretion, adopt more restrictive floodplain management requirements. For example, the community can require that new or substantially improved buildings be elevated or floodproofed to one or more feet above the BFEs provided in the draft or preliminary FIS. This more restrictive requirement is generally referred to as "freeboard".

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. This is in keeping with FEMA's statutory obligation to provide a reasonable time for the community to adopt floodplain management regulations consistent with the final flood elevation determinations. Subparagraph 44 CFR 59.24(a) of the NFIP Regulations provides for a six month compliance period in which the community must adopt the effective FIS and FIRM and amend existing regulations to incorporate any additional requirements under 44 CFR 60.3.

Floodplain management ordinances generally contain a section entitled "Basis for Establishing the Areas of Special Flood Hazard" in which the current effective FIS and FIRM are cited. Language in the ordinance may include any subsequent amendments thereto (i.e., to include any subsequent revised FIS and FIRM); however, this language should not be used as the basis for a community to use the preliminary FIS prior to the issuance of the LFD. 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.

Advisory Flood Hazard Data:

FEMA may issue advisory flood hazard data in certain situations. A major flood disaster, such as from a coastal storm or from a failure of a flood protection system, may result in a community's effective FIS and FIRMs underestimating the extent of the flood hazard and the risk of flooding. FEMA may undertake a post-flood survey to document additional areas of the community subject to the base flood (1% annual chance) and to develop estimated flood elevations which will be used to reanalyze and revise the effective FIS and FIRMs. The information from the post-flood survey will be provided to communities as advisory information when the analyses indicates that the effective FIS and FIRMs are inaccurate. Also, communities may obtain or develop flood hazard data that indicates existing flood hazard areas that shows a greater risk than what is in the effective FIS and on the FIRM.

Communities are advised to prudently use this information for regulating floodplain development. When communities receive advisory flood hazard information or have evidence that there is an increased flood hazard risk, communities have a responsibility to evaluate and prudently use this information for actions in the floodplain to ensure that structures are not vulnerable to flood damage. If a community chooses to use this information, it is advised that the community formally adopt the information. Neglecting to take into consideration advisory or other flood hazard information and not taking reasonable actions to ensure that the health, safety, and property of their citizens are protected may subject the community to potential liability when flooding occurs.

Insurance Implications

Zone A:

For a new or substantially improved structure, communities can use information from a draft or preliminary FIS for completing the Elevation Certificate in Zone A areas. The flood insurance policies for new or substantially improved structures in Zone A that are rated using BFE data from a draft or preliminary FIS will often qualify for significantly lower insurance rates than policies that 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. The flood insurance rate will be based on the elevation difference between the BFE and FIRM Zone in effect and the elevation of the lowest floor. Therefore, if a new or substantially improved structure is built to the proposed BFE from a draft or preliminary FIS and this BFE is higher than the BFE in effect, the flood insurance rate may be significantly lower. However, a new or substantially improved structure 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.

Further Information

Managing Floodplain Development in Approximate Zone A Areas, A Guide For Obtaining and Developing Base (100-year) Flood Elevations, FEMA 265, July 1995. Additional guidance pertaining to obtaining and developing BFEs in Zone A can be found in this publication. To obtain a copy of this publication, see the section on Ordering Information on the following page.

Comments

Any comments on the Floodplain Management Bulletin should be directed to:

FEMA
Mitigation Directorate
500 C St., SW
Washington, D.C. 20472

Ordering Information

Copies of Floodplain Management Bulletins are available from various sources.

- Floodplain Management Bulletins can be ordered from the FEMA Distribution Facility. Use of FEMA Form 60-8 will result in a more timely delivery from the warehouse. The form can be obtained from FEMA regional offices or your state's Office of Emergency Management. Send publication requests to FEMA Distribution Facility, P.O. Box 2012, Jessup, MD 20794-2012. FEMA's Distribution Facility also accepts telephone requests (1-800-480-2520) and facsimile requests (301-497-6378).
- FEMA's Fax-On-Demand system: Call 202-646-FEMA (3362) and follow the directions.
- FEMA World Wide Web Page: <http://www.fema.gov/mlt/>
- Copies of the Floodplain Management Bulletins can be obtained from the appropriate FEMA regional office.

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