



Expanded Appeals Process

What is The Expanded Appeals Process (EAP)?

FEMA has revised its existing appeals policy to expand the due process procedures that were only previously provided for new or modified Base Flood Elevations (BFEs). The process formally called Protests and Appeals is now the *Expanded Appeals Process* (EAP). The EAP, which became effective on December 1st, 2011 expanded due process rights through a 90 day appeal period required for any additions or modifications to any Special Flood Hazard Area (SFHA) boundary, zone designation, and/or regulatory floodway boundary. EAP guidance also applies to Letters of Map Revisions (LOMRs) that reflect updated flood hazards issued after December 1, 2011.

Why Change the Process?

FEMA revised its policy to provide the same due process mandated for BFE changes in Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93-234) to now include other changes that will essentially have the same impact on the community. Individuals in the area affected by a zone change may become exempt from being required to purchase flood insurance or may be required to buy flood insurance. Therefore all changes in the SFHA with possible insurance impacts will now have an explicit process of notification and appeals, in order to ensure an equitable balancing of all interests involved before making final determinations.

What is the Process?

After a community receives new preliminary DFIRM panels showing new or revised hazard data, a 90-day appeal period is provided. During the appeal period, community officials, commercial property owners, and individual property owners may submit formal objections to information shown on preliminary DFIRM panels or the accompanying preliminary FIS Report. This appeal period begins on the date when the Federal Emergency Management Agency (FEMA) publishes the second of two legal notices of proposed FIRM changes in a local newspaper.

Under the previous process, appeals only challenged new Base Flood Elevations (BFEs), and any objections to additions or modifications to any Special Flood Hazard boundary Zone or Floodway were ineligible for consideration as an appeal. Protests were used to challenge corporate limits, road names, stream names, and also information regarding the delineation of the updated floodplain boundaries and regulatory floodways.

Under the EAP, there are now "appeals and comments". What is appealable has expanded to include not only new BFEs, but the addition or modification of any Special Flood Hazard Area (SFHA) boundary, zone designations, and floodway boundaries (including both increases and decreases in the extent of the SFHA). The requirement for submission of scientific data to warrant an appeal remains in place. Comments, like protests, cover challenges to corporate limits, Extraterritorial Jurisdiction (ETJ) boundaries, road names, and stream names.

The following information is provided to explain the procedures for submitting appeals and comments and how these petitions are reviewed and resolved under the NCFMP.

What is an Appeal?

An appeal is a formal challenge to new or revised BFEs, the addition or modification of any Special Flood Hazard Area (SFHA) boundary or zone designation, and the addition or modification of any regulatory floodway in the preliminary FIS report or on the DFIRM panels. The appeal application and all supporting data should be submitted during the 90-day appeal period. If you are newly mapped into a high-risk flood zone or your BFE has changed, you may file an appeal by providing information such as updated detailed hydraulic and hydrologic data. Appeals are based on data that show the proposed modification to be scientifically or technically incorrect.

What Information is Required to Support an Appeal?

Developing a flood study with BFEs along a stream involves collection of historical and physical data, followed by analyses using hydrologic methods to determine flow rates and hydraulic modeling to determine water-surface elevations. Studies of coastal flooding involve specialized analyses of storm surge and wave effects. Depending on what specific aspect of the study is being challenged, various types of data are required to support an appeal.

FEMA's document, Criteria for Appeals of Flood Insurance Rate Maps, provides detailed guidance on developing the necessary technical data to support appeals. The following table shows how different types of scientific and technical data such as an engineering description, topographic mapping, or survey data may be handled as an appeal to the hydrologic and/or hydraulic analyses prepared for the preliminary FIS Report and DFIRM panels. In the table below, the appellant is the entity submitting the appeal.

Basis of the Formal Objection	Data Supporting the Formal Objection	Data Submitted By:	Revised Study Performed By:
Incorrect Methodology Used in a New Study	Explanation for superiority of alternative hydrologic or hydraulic methodology	Appellant	Appellant
Methodology Not Correctly Applied in a New Study	Explanation for superiority of different application of hydrologic or hydraulic methodology	Appellant	Appellant
Insufficient or Poor Quality Data in a New Study	Data believed to be superior to those used in original hydrologic or hydraulic analyses; documentation for source of the new data	Appellant	Appellant
Mathematical Error in a New Study	Information that identifies the error and provides the correct calculation	Appellant	NCFMP/FEMA
Measurement Error in a New Study	Information that identifies the error and provides the correct measurement	Appellant	NCFMP/FEMA
Physical Change in the Floodplain Since a New Study	Information that identifies the change and sufficient topographical and/or structural data for an updated hydraulic analysis	Appellant	NCFMP/FEMA

In some cases, the appellant is required to submit a revised study, including updated hydrologic and/or hydraulic analyses, flood profiles, and floodplain and floodway boundaries, using the alternative methods or data believed to be superior to those used in the preliminary study. In other cases, FEMA or the NCFMP may perform the calculations to make any necessary changes to the preliminary flood hazard data.

What is a Comment?

A comment is an objection to a base map feature change or any non-appealable change. It is a formal objection to the FIS Report and/or information shown on the DFIRM panels that is not related to BFEs or modified SFHA designations. Comments also must be filed during the 90-day appeal period. Comments generally involve mislabeled maps such as incorrect corporate limits, Extraterritorial Jurisdiction (ETJ) boundaries, road names or locations, as well as any other possible omissions or potential improvements to the mapping.

What Information is Required to Support a Comment?

To comment on a street or stream name/location, or other map features unrelated to the flood hazard data, submit information (preferably in a digital format) that is more recent than those used for the Preliminary map panel in question. In addition, the requested changes to the features should be marked on the flood map panel and/or explained in a written summary.

Should Property Owners Submit Appeals and Comments Directly to NCFMP and FEMA?

Any property owner wishing to submit an appeal or comment to the data in the preliminary FIS report or on the DFIRM panel should submit the petition, along with supporting data, to the CEO or floodplain administrator of the relevant community. It is then the community's responsibility to forward this information to NCFMP and FEMA.

How Do Community Officials Submit Appeals and Comments to NCFMP and FEMA?

The CEO or designated community official should review each petition received regarding the preliminary FIS Report and DFIRM panels. Then the community must forward this information to NCFMP and FEMA, along with a statement as to whether or not the community supports the petition. The CEO or designee may also submit a petition to a preliminary DFIRM or FIS Report on behalf of the community. These objections and all supporting data should be sent to: John Dorman, Director, North Carolina Floodplain Mapping Program, 4218 Mail Service Center, Raleigh, NC 27699-4218, (919) 715-5711. The community should also send a copy of this information to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA 500 C Street, S.W., Washington, D.C. 20472, (202) 646-4064.

How Are Appeals and Comments Resolved?

A letter will be sent to the CEO of the affected jurisdiction(s) acknowledging receipt of the petition. The supporting data will be reviewed to determine whether they constitute a valid appeal or comment and if they support a revision to the preliminary FIS Report or DFIRM. If necessary, additional supporting data may be requested. Following the review of all submitted data, NCFMP and FEMA will send a letter to the community CEO, explaining the resolution of the appeal or comment along with copies, if necessary, of a revised preliminary FIS Report and/or DFIRM panels. Updates to the FIS Report and/or DFIRM panels that reflect the resolution of a comment are typically produced when the final FIS Report and DFIRM panels are released. The community has 30 days to review and comment on the resolution. At the end of the comment period and after any comments on the appeal or comment resolution have received a response, FEMA issues a final determination letter to the affected community, publishes the new or revised data in the Federal Register, and prints the new FIS Report and DFIRM panels. If the appellant and FEMA cannot come to an agreement, a new process (as of November 1, 2010) is in place to resolve the issue. The appellant can request a review by the Scientific Review Panel (SRP). Details of the SRP process can be found at www.fema.gov/pdf/media/factsheets/2010/srp_fs.pdf.

What Happens after the Appeal Period?

After completion of the 90-day appeal period and all appeals and comments are resolved, FEMA will then issue a Letter of Final Determination (LFD), which establishes that the final flood hazard information is final. The LFD initiates the 6-month adoption/compliance period during which the community must adopt or amend its floodplain management ordinance to reflect the flood hazard information shown on the DFIRM. The DFIRM and FIS report become effective at the end of the 6-month adoption/compliance period. The effective date is the date when flood insurance will be required for properties now within the SFHA shown on the DFIRM. The final DFIRM and FIS report will be available at your community's local map repository and online at www.NCFloodmaps.com or <http://rfris.nc.gov/fris/>.

How Are Concerns Pertaining to Unrevised Flood Hazard Information Addressed?

Flood hazard information from a current effective FIS report or DFIRM panels carried over, without revision to the BFEs, to a preliminary FIS report or DFIRM panels cannot be appealed or commented, because the data already went through an appeal period when the effective maps were originally issued. However, since new FIS Report and DFIRM panels are being prepared, the opportunity exists to update unrevised information in the FIS Report and on the DFIRM panels before printing. If a revision request is received in conformity with NFIP regulation 44 Code of Federal Regulations Part 65 from the community, all efforts will be made to incorporate the data into the new FIS Report and DFIRM panels. However, time constraints or lack of necessary data may require that the map revision request be processed after the new FIS Report and DFIRM panels are effective. Furthermore, a community's current FIS Report or DFIRM panels can always be updated through the Letter of Map Revision process, provided the necessary data is submitted. Therefore, concerns with unrevised flood hazard information and supporting data should be forwarded by the affected community to the addresses above as a map revision request.

Where Can I Get Additional Information on Appeals and Comments?

Further information on this topic, as well as the NFIP and floodplain mapping, is available from the FEMA Map Information eXchange toll-free information line at 1-877-FEMA MAP (1-877-336-2627) or via e-mail at FEMAMapSpecialist@riskmapcads.com.

A list of National Flood Insurance Program-accepted hydrologic, hydraulic and coastal models is available on FEMA's website at http://www.fema.gov/plan/prevent/fhm/en_modl.shtm.

Additional FEMA procedural details are provided in *Procedure Memorandum No. 57, Expanded Appeals Process*, dated November 30, 2011. Link: <http://www.fema.gov/library/viewRecord.do?id=4938>

Detailed information on appeals can also be found in *Appeals, Revisions, and Amendments to National Flood Insurance Program Maps—A Guide for Community Officials* and FEMA's *Document Control Procedures Manual*.

All referenced documents are accessible through the "Guidance Documents and Other Published Resources" webpage, located at: http://www.fema.gov/plan/prevent/fhm/frm_docs.shtm