

PRELIMINARY PRODUCTS APPEAL PROCESS

REGION VIII

WHAT IS THE APPEAL PROCESS AND HOW DOES IT WORK?

After FEMA issues preliminary Flood Insurance Rate Maps (FIRMs), the appeal process is a 90-day statutory period that allows any property owner or lessee to provide Data to demonstrate that the proposed flood hazard areas, elevations, or depths on the preliminary FIRM or in the Flood Insurance Study (FIS) report are not correct.

FEMA starts the 90-day appeal process by:

- Publishing a notice in the Federal Register;
- Notifying the affected communities of the start of the period by letter; and
- Publishing a legal notice twice in a prominent local newspaper

During the appeal period, any property owner or lessee can prepare an appeal (must be sent to and reviewed by a community official). Following review and concurrence by a community official, appeal and comment packages are submitted to FEMA Region VIII via the following email address: R8commentsandappeals@fema.dhs.gov. All appeals must be received by FEMA on or prior to the 90th day of the appeal period to be considered for incorporation.

WHAT IS CONSIDERED AN APPEAL?

To be considered an appeal, a submittal must:

- Include data that documents the proposed flood hazard information (e.g. new or modified Special Flood Hazard Area (SFHA), base flood depths, and/or floodway boundaries) is scientifically incorrect, technically incorrect, or that an indisputable mathematical or measurement error or changed physical condition has occurred;
- Include the required revisions to the FIRM and/or FIS report (e.g. boundaries of revised floodplains, BFEs, floodway boundaries); and
- Be received during the statutory 90-day appeal period.

Analyses and data submitted in support of an appeal must be certified by a registered professional engineer or licensed land surveyor, as appropriate. A specific definition for appeals and items required to be submitted as part of an appeal are included in FEMA's Appeal and Comment Processing Guidance for Flood Risk Analysis and Mapping. The designation of a submittal as an appeal OR a comment provides certain rights, including the opportunity for the affected community to have data reviewed by a Scientific Resolution Panel (SRP) as explained below.

WHAT IS A COMMENT?

The term comment is used for any submittal that does not meet the requirements outlined for appeals. Comments include feedback regarding road names, jurisdictional boundaries, other base map features, concerns about proposed flood hazard information or any technical submittal which does not meet the full technical submittal as outlined in FEMA's Appeal and Comment Processing Guidance for Flood Risk Analysis and Mapping.

WHO CAN SUBMIT SOMETHING DURING AN APPEAL PERIOD?

A community, an owner or lessee of a property, or anyone impacted by a change in flood hazards can submit information during an appeal period. All appeals and comments must be reviewed and submitted to FEMA by a community official or community designee.

WHAT INFORMATION DO I NEED TO SUBMIT TO SUPPORT MY APPEAL?

It is necessary to submit information that demonstrates the preliminary flood hazard information is scientifically incorrect, technically incorrect, or that an indisputable mathematical or measurement error or changed physical condition has occurred. Submittal requirements for each type of appeal are outlined in FEMA's Appeal and Comment Processing Guidance for Flood Risk Analysis and Mapping and FEMA's Criteria for Appeals of Flood Insurance Rate Maps.

Please note the FEMA Policy Standards for Flood Risk Analysis and Mapping publication serves as the authoritative policy and standards documentation available from FEMA and takes precedence over other guidance documents found here: <https://www.fema.gov/media-library/assets/documents/34953>.

SHOULD I SUBMIT AN APPEAL IF I BELIEVE MY HOME WAS INCORRECTLY INCLUDED IN THE HIGH-RISK FLOODPLAIN SHOWN ON THE FIRM?

Due to map scale limitations, changes to individual lots or structures typically cannot be shown on the FIRM, therefore the appeal period is reserved for proposed flood hazard areas, elevations or depths on the preliminary FIRM. If you believe your home or property has been incorrectly mapped in the SFHA, you can ask FEMA to examine the location of your property in relation to the SFHA after the FIRM becomes effective, using the Letter of Map Amendment (LOMA) process. The LOMA process enables property owners to submit materials to change the zone designation for the structure or property on an effective FIRM, not a preliminary FIRM. It is recommended that applicants submit their LOMA application based on a preliminary FIRM fewer than 30 days before the preliminary FIRM is set to become effective, or any time after the FIRM becomes effective. If homeowners want to stay informed about when their preliminary FIRM is expected to become effective, they may contact their community Floodplain Administrator (usually an official in the Building Department), or the FEMA Map Information eXchange (FMIX) at 877-FEMA-MAP.

FEMA's LOMA webpage provides an overview of the process and outlines what information is required for a submittal: <https://www.fema.gov/letter-map-amendment-loma>. Letters of Map Change (LOMCs) can be submitted through the Online LOMC site: <https://hazards.fema.gov/femaportal/onlinelomc/signin>.

WHAT WILL HAPPEN AFTER I SUBMIT AN APPEAL OR COMMENT?

FEMA, in coordination with the Regional Service Center, will review the submitted information and prepare an acknowledgement that will state one of the following: 1) that an appeal is valid and a change to the preliminary FIRM and/or FIS is warranted based on the information submitted, 2) that more information is needed to complete the review, or 3) that the information is considered a comment; a determination on whether it will be incorporated into the study will also be included.

FEMA provides a 30-day comment period from the date an appeal or comment resolution letter is issued to allow the community/submitter to review FEMA's findings subject to the appeal or comment. The 30-day comment period is not open to the public; it is designated for review and comment of the resolution by only the community/submitter. Any comments received during the 30-day comment period must be addressed and resolved before proceeding with the Letter of Final Determination (LFD).

An LFD is a letter FEMA sends to the Chief Executive Officer of a community stating that the new or updated FIRM will become effective in six months. The letter also notifies each affected flood-prone community participating in the National Flood Insurance Program (NFIP) that it must adopt a compliant floodplain management ordinance by the map effective date to remain in good standing in the NFIP.

WHAT IS A SCIENTIFIC RESOLUTION PANEL?

Scientific Resolution Panels (SRPs) are independent panels of experts in hydrology, hydraulics, and other sciences established to review conflicting scientific and technical data and provide recommendations for resolution. An SRP is an option for a community after FEMA and the community have been engaged in a collaborative consultation process (for at least 60 days, but no more than 120 days) regarding data submitted during the appeal period for which a mutually acceptable resolution has not been achieved. The panel must present its written report to FEMA and the community within 90 days of being convened, and FEMA will use that report to make the final determination. More information is available in FEMA's SRP fact sheet: https://www.floodsrp.org/pdfs/srp_overview.pdf.

Notices for communities currently within the 90-day appeal period as well as notices for communities for which the 90-day appeal period ended within the past three months can be viewed here: https://www.floodmaps.fema.gov/fhm/bfe_status/bfe_main.asp