



FEMA

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SUBJECT: Guidance for Use of Available Information in Complying with
44 CFR Section 9 and EO 11988 (Floodplain Management)

Purpose: This memorandum provides guidance on the requirement in 44 CFR Section 9.7(c) and Executive Order (EO) 11988 Section 2(a)(1) on the use and location of available flood hazard information for FEMA funded actions in Texas impacted by Hurricane Harvey events of 2017.

Scope: FEMA funded projects include temporary and permanent facilities, housing, reconstruction, rebuilding, and all repair efforts under the Public Assistance, Individual Assistance, and Hazard Mitigation Grant Program.

Background: EO 11988 requires federal agencies to avoid or minimize occupancy of or disruptions to the nation's floodplains. EO 11988 is codified in 44 CFR Section 9. EO 11988 stipulates that the location of a particular floodplain (or Special Flood Hazard Area) is determined by the most current available flood risk information. As flood risk is constantly evolving, ensuring the correct identification of the most current available floodplain information is essential. In turn, this available information then serves as the basis for mandated requirements for elevation, building, and other FEMA funded site actions.

Applicability: This memorandum identifies the source and location of the available flood information for FEMA funded actions for DR-4332-TX, as well as protocols for applying this information.

Where to Find the Most Current Available Flood Risk Information

Step 1. The most current available information, as of the date of this memo, is contained in the enclosed spreadsheets and posted on riskmap6.com at the following address:

http://riskmap6.com/documents/resource/20170831_AvailableData_TX.pdf.

The available flood risk data must be used to determine the flood zone, including the coastal high hazard area, and for elevation and reconstruction requirements when making recovery and mitigation decisions for FEMA grants. It must also be used in determining requirements for the placement of temporary facilities and temporary housing units.

Step 2. A comparison must now be made between this information and the local elevation requirement of the community in which the action is occurring. The higher of the two requirements prevails. For example, the enclosure *AvailableData_TX*, may identify an elevation of two feet as the most current available flood risk information; however, the local National Flood Insurance Program-participating community has adopted a minimum standard of building as three feet above the base flood elevation (BFE). The three-foot requirement of the local community prevails, because it is more restrictive.

Bottom Line: The requirement is always the more restrictive, or higher, of the most current available information depicted in the enclosure *AvailableData_TX* or the floodplain requirement of the community in which the action is taking place.

How to Apply the Available Information and Requirements on the Use of Draft or Preliminary Flood Insurance Study Data:

FEMA has provided guidance on the use of draft or preliminary Flood Insurance Study (FIS) data as available data for regulating floodplain development in Floodplain Management Bulletin 1-98, *Use of Flood Insurance Study Data as Available Data* (FPM 1-98). The key points for communities in using the draft preliminary FIS data for regulating floodplain development are:

- The guidance in FPM 1-98 specifies situations in Zone A (without BFEs designated) where draft flood hazard data or preliminary FISs are required to be used by communities.
- This guidance also describes how communities should use draft or preliminary FIS data in Zones AE, A1-30, AH, AO, VE and V1-30 (where BFEs have been identified). In these zones, the NFIP does not require communities to use BFE data from draft data or preliminary FIS. The reason is that the existing effective BFE data has gone through the statutory appeals process which gives the effective BFE data a presumption of validity.

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This is also the BFE data that has been adopted by the community. However, FEMA encourages communities to use the draft flood hazard data or preliminary FIS if BFEs increase. In cases where BFEs decrease, communities should not use the information to regulate development until all appeals have been resolved to ensure lives and property are not placed at increased risk in case a valid appeal results in an increase in BFEs.

Enclosure

cc: Traci Brasher, R6 REC