

Answers to Lender Questions about FFRMS

1. *Please provide clarification of the final date to submit an application to qualify under the previous Part 55 rule.*

October 1st. For most HUD programs, the compliance date for the rule was June 24, 2024. For FHA programs plus programs that follow Chapter 9 of the MAP Guide, there is an extended compliance deadline until Jan 1, 2025. The compliance dateline is tied to a completed floodplain management review, not to the application date. The October 1st deadline will allow HUD to complete the HEROS review or if that is not feasible, complete an 8-step analysis including two public notices.

2. *Please describe HUD's plan for Sub-Rehab projects located within the FFRMS when raising a building above the BFE is not feasible.*

The first step is to determine the required FFRMS elevation and assess whether elevation or floodproofing may be feasible. For example, elevation may only apply at one or two buildings at a larger project, or a building may only need inches of elevation that could be achieved by raising the interior floor height.

If the property has ongoing HUD assistance or mortgage insurance, and the following conditions are satisfied, then the property may be considered under the alternate process for existing nonconforming sites. Consideration is not a guarantee of acceptance as approval is at the discretion of the Assistant Secretary for Community Planning and Development. In exceptional circumstances HUD may consider this alternate processing when the following conditions are met:

a) HUD completes an environmental review pursuant to 24 CFR part 50, including the 8-step decision making process pursuant to § 55.20, that:

(1) Documents that it is not practicable to transfer the HUD assistance to a site with lower flood risk under existing program rules, financial limitations, and site availability; and

(2) Mandates measures to ensure that the elevated flood risk is the only environmental hazard or impact that does not comply or that requires mitigation to comply, with HUD's environmental requirements at 24 CFR parts 50, 51, 55, and 58; and

(b) The proposed project incorporates all practicable measures to minimize flood risk, preserve the function of the floodplain and any impacted wetlands as described in § 55.20(e), and increase the overall resilience of the site, as approved and/or required by HUD. At minimum, these measures must include:

(1) Removal of all residential units and critical action structures from the floodway;

(2) Identification of evacuation routes out of the FFRMS floodplain;

(3) A No-Rise Certification for any new improvements in the floodway; and

(4) Elevation (or floodproofing pursuant to § 55.20(e)(1)) of existing structures within the FFRMS Floodplain, where practicable.

Environmental review preparers looking to utilize this process should begin discussions early with their respective Regional Environmental Officer to better understand if their project may be a viable candidate for consideration.

In addition to these items, it should be noted that the National Flood Insurance Program requires residential structures that are substantially improved to be elevated to or above the base flood elevation. Flood insurance is required for all HUD-assisted improvements to structures in a Special Flood Hazard Area.

3. *Since we need to abide by the new 8-step rules which will be in effect as of January 1, 2025, can you tell us which government websites as of today are suitable for public notice?*

8-step notices may now be published on an appropriate local government website that is accessible to individuals with disabilities and provides meaningful access for individuals with Limited English Proficiency.

Appropriate local websites for FHA projects include a general city or county website, a permitting website, a zoning board website, or other location where similar notices or similar actions might be posted.

For online publications, projects must submit a PDF that includes the website address and date of printing; certification from the local government office to include the dates of publication and website address along with a copy of the publication made; or other like affidavit of publication.

Note that initial and final notices must also be sent to Federal, State, and local public agencies, organizations and individuals known to be interested in the proposed action.

If no local government website that meets HUD's criteria available, project must be published in paper.

4. *Part of the new 8-step process requires elevation certificates for new construction, but how can those be obtained when the building hasn't yet been built?*

Elevation certificate is provided as proof of mitigation completion in the final project file. The floodplain analysis in the environmental review record must indicate that elevation is a required mitigation activity but does not require an elevation certificate prior to approval of the review. While the regulation does require documenting an elevation certificate in the environmental review record prior to construction, it also allows for documentation of elevation "by such other means as HUD may from time to time direct." It is HUD policy that elevation certificates may be documented upon completion of construction as a conditional requirement of the environmental review, where appropriate.

5. *When completing a straight refi using a 223(f) on a project with minimal repairs within the FFRMS and below 2' of the BFE, is floodproofing allowed for the ground floor units? Will this preclude a refi with HUD?*

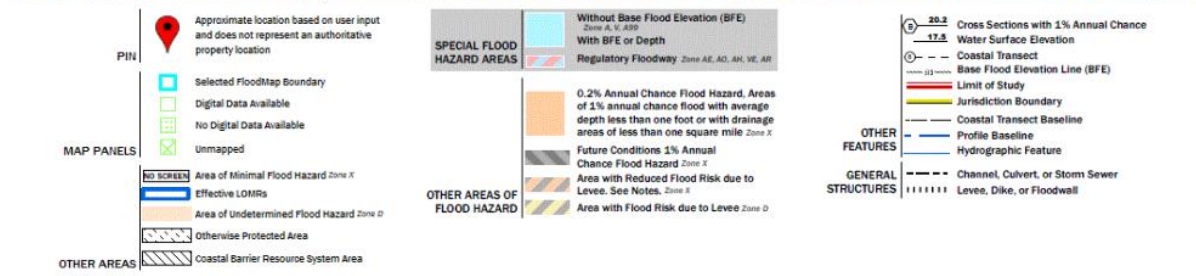
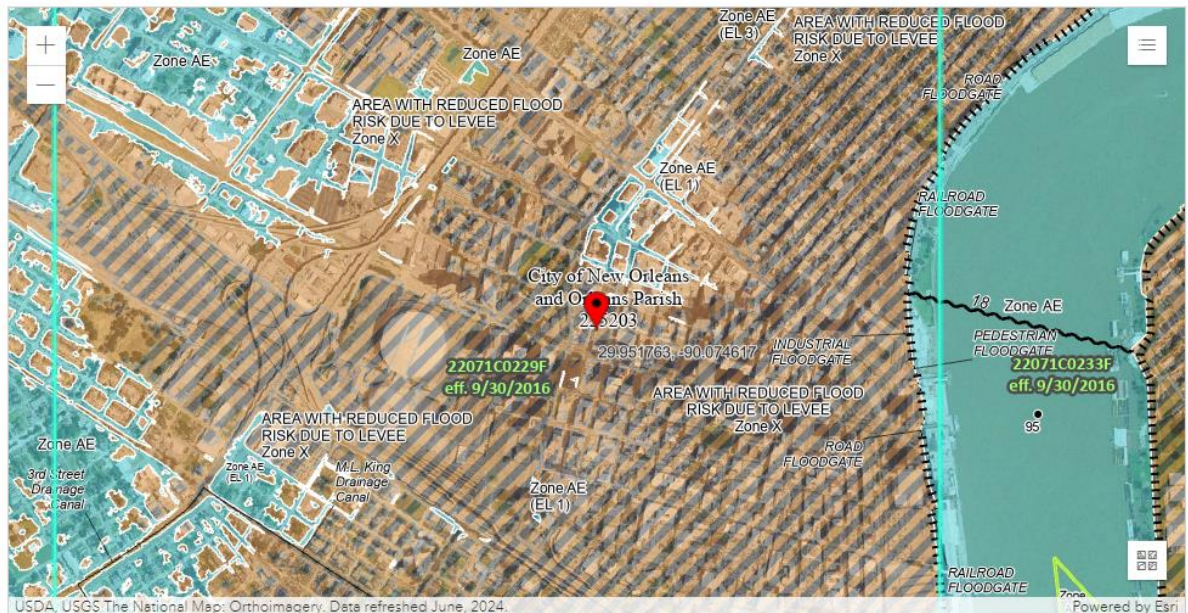
Refinance with repairs below the substantial improvement threshold are not required to elevate or floodproof but should consider other mitigation measures as part of the 5-step analysis.

6. *In areas protected flood by an accredited levee system, how should the FFRMS elevation be calculated?*

HUD will accept the protection of an accredited levee and consider the FFRMS floodplain areas behind levees to be limited to areas defined using the 0.2-percent- annual-chance flood approach or the Freeboard Value Approach (FVA) using the 1% annual chance floodplain landward of the levee.

We have provided two examples below, and additional detail will be available soon on the HUD Exchange.

Example 1: New Orleans location pictured below.



- Anything in the 0.2-percent floodplain or SFHA landward of the levee would be FFRMS floodplain.
- Non-critical actions: Anything in the hashed tan and grey (area with reduced flood risk due to levee (Zone X)) is not FFRMS and would not require elevation under the regulation.
- Critical Actions: FFRMS floodplain determined in the area with reduced risk due to levee (Zone X) after comparing 0.2-percent floodplain and FVA+3 approaches and taking the

higher. The FVA is considered only for flooding sources landward of the levee, not the source contained by the levee. The elevations would similarly come from the landward flooding sources, not from the Mississippi River.

- Projects must follow any local elevation requirements.

Example 2: Marked Tree, AR.

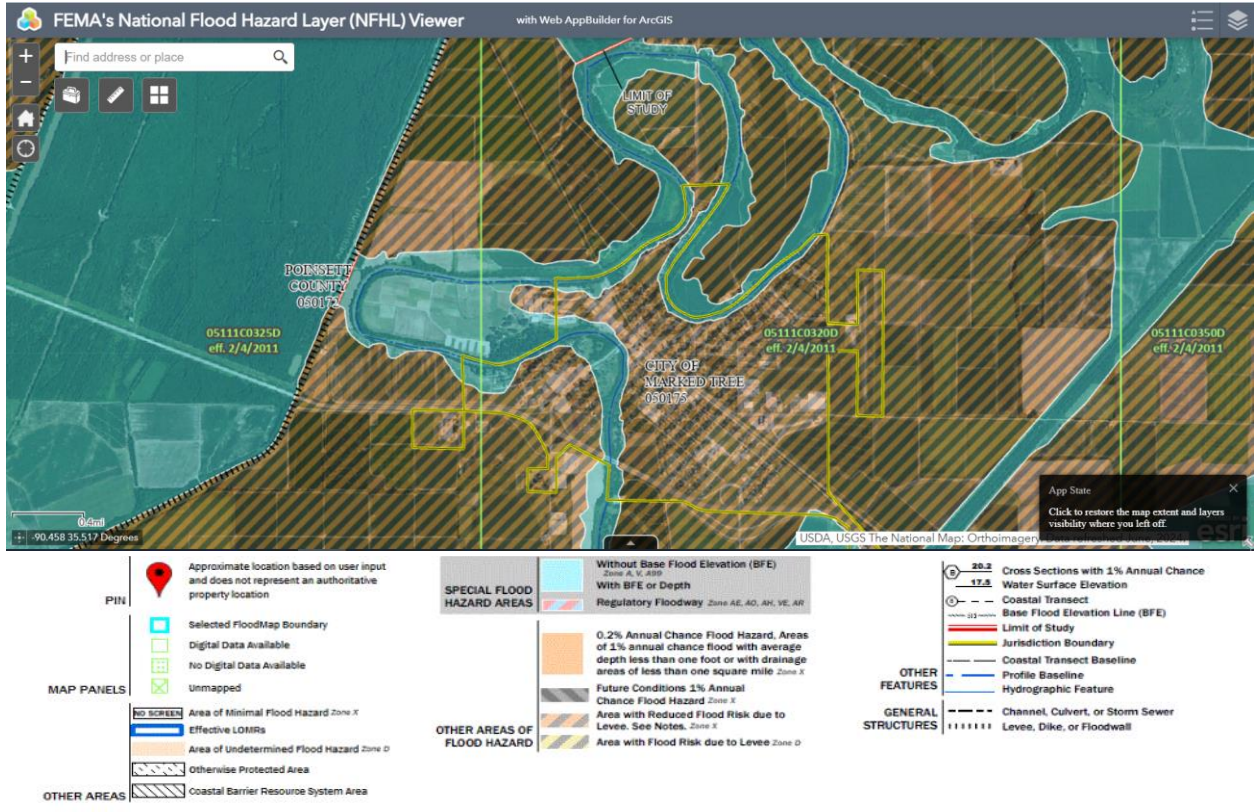


Image from NFHL Viewer; key from FIRMette—colors may not match exactly.

In this example there is no defined 0.2-percent floodplain. For both critical and non-critical actions, FFRMS would be determined via FVA approach considering only flooding sources landward of the levee, not the source contained by the levee. Projects must follow any local elevation requirements.

7. What to do when 0.2 percent floodplain is not shown on FEMA FIRM map, but FEMA has defined 0.2 percent floodplain in the Flood Insurance Study (FIS).

Most 0.2-percent-annual-chance-flood areas are mapped on FEMA FIRM maps. However, in some cases, particularly in situations where the 0.2-percent floodplain boundary is very close to the Special Flood Hazard Area boundary, FEMA may have defined the 0.2-percent floodplain boundary in the FIS even though it is not visible on the FIRM map at its published scale.

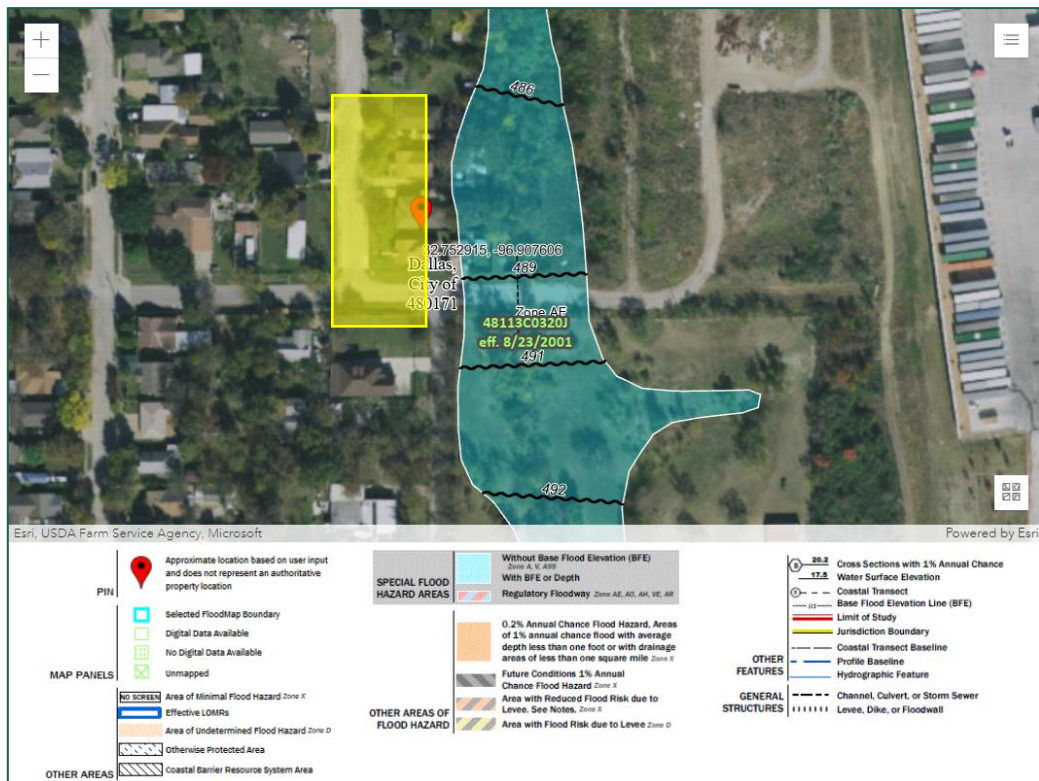
Until HUD adopts CISA data, if FEMA has defined the 0.2-percent floodplain, either on the FIRM map or in an FIS study, non-critical projects must use the 0.2-percent floodplain to define the FFRMS floodplain. Critical projects must compare the 0.2-percent floodplain to the FVA +3 floodplain and define the FFRMS using the higher elevation.

HUD recognizes that locating information on the FIS study is more complex than reviewing a FIRM map. HUD further notes that in cases where the FIS defines a 0.2-percent floodplain but it is not visible on the FIRM, the 0.2-percent floodplain boundary will be smaller than the FVA approach. Lenders therefore have the option to move straight to the FVA approach to determine the FFRMS floodplain when the 0.2-percent floodplain is not mapped on a FIRM. However, we recommend using the FIS data as a best practice for a more precise FFRMS boundary.

- When a floodplain has variable Base Flood Elevations across a property, would elevation requirements for structures (assuming substantial improvement) be dictated by the highest calculated FFRMS elevation, or would they also vary, based on topography and the closest applicable BFE?

For a site with multiple BFEs to reference against, the most precise FFRMS elevation would come from the flood profile in the FIS. HUD would accept using the closer BFE indicated on the FIRM, or in close cases using the higher of the closest BFEs.

In the example below, the structure labeled with the red marker could use 489' as the BFE, resulting in an FFRMS elevation of 491', or could find a more precise BFE for the location in the FIS flood profiles. A building at the northern edge of the parcel in yellow could use 486' as the BFE, resulting in an FFRMS elevation of 488'.



9. *When a property is located wholly within Zone X (Unshaded), how far from the property should applicants search in order to confirm it is outside the FFRMS floodplain?*

This would depend on the site and its surrounding topography. The environmental review will need to consider any floodplains with the potential to affect the property. Comparing the site to floodplains identified on the FIRM panel (and adjacent panels if the project is located on the edge of a panel) would provide sufficient analysis for the review.

For non-critical actions in Zone X Unshaded, any floodings sources for which the 0.2-percent floodplain has been defined can be disregarded.

In most cases where the Freeboard Value Approach is required, SFHA floodplains more than one mile from the project site would not have the potential to extend to the project site. In some cases, HUD may require a larger search distance as dictated by local topography.

10. *Can you provide some clarity on if the CISA maps will be available for public review prior to the FFRMS implementation date of January 1, 2025?*

HUD is not requiring the use of CISA until it has formally adopted a CISA tool to describe the FFRMS floodplain through a Federal Register notice. HUD will not adopt a CISA tool before the 1/1/25 compliance deadline.

11. *When will HUD be releasing additional guidance/clarification on what, exactly, constitutes a “de minimis” improvement within a regulatory floodway?*

HUD is releasing guidance on FFRMS on the HUD exchange frequently. The WISER module on floodplains has already been updated and defines de minimis as including minimal ground disturbance or minimal placement of impervious surface area to ensure accessibility where this is permitted by local ordinances and does not increase the flood risk to the property.

Housing has worked with OEE to provide the following additional guidance: De minimis improvements are improvements that do not affect the intended use of the property and would not displace significant amounts of flood water. Examples of de minimis improvements include landscaping, existing sport courts, trails, certain fences, and minimal placement of impervious surface to ensure accessibility.

12. *When will HUD be releasing additional guidance/clarification on what is defined as a “functionally dependent use” within a regulatory floodway?*

Functionally Dependent Use means land use that must necessarily be conducted in close proximity to water (e.g., a dam, marina, port facility, water-front park, and many types of bridges). This definition is posted on HUD Exchange in the WISER module for floodplains.

13. *Can we rely on the FFSST tool <https://floodstandard.climate.gov/> to document FFRMS?*

The Federal Flood Standard Support Tool (FFSST) currently includes CISA and FVA information but does not include 0.2-percent floodplain. Until HUD officially adopts a federal CISA map, the first step is to look for 0.2-percent floodplain. The FFSST FVA data can therefore be used if there is no 0.2-percent floodplain designated. Note that FFSST may not

be appropriate for all areas, such as areas behind levees, areas with preliminary FIRMS, or near floodplains without defined BFEs.

The FFSST currently provides FVA floodplain boundaries in a raster (approximate, grid based) display instead of a vector layer (precise and smooth boundaries), making it useful for clear cut determinations at the project site level. Close calls and determinations for individual buildings will typically need to use flood profiles and the site survey.

This answer may change when the FFSST tool adds 0.2-percent floodplain data.

This answer will also change if HUD adopts the FFSST tool for CISA.