

# FEMA FIRM APPEAL AND PROTEST PROCESS

## Procedures of Submission and Resolution

### 90-DAY APPEAL PROCESS



The Federal Emergency Management Agency (FEMA) is completing and issuing Preliminary Flood Insurance Rate Maps (FIRMs) depicting new or revised Base Flood Elevations (BFEs) meaning that properties along the Trinity River levees that are currently considered protected against the 1% annual chance (100-year) flood event are now being shown as floodplain. Upon issuance of the Preliminary FIRMs, there is a federally mandated 90-Day Appeal Period for public review of the data. The 90-Day Appeal Period begins on the date of the second publication of a legal notice listing the new or revised BFEs in a local newspaper.

During the Appeal Period, the community or other interested parties may refute the data shown on the Preliminary FIRMs and submit a formal objection in two ways: **Appeal Process and/or Protest Process.**

#### Appeal Process

A study that determines BFEs along the river involves collection of historical and physical data, followed by analysis to determine flow rates and water-surface elevations. Depending on the part of the study that is being challenged, various types of data are required to support an appeal.

The appeal is a formal objection to new or revised BFEs shown on a Preliminary FIRM. BFEs can be appealed if they are shown to be scientifically or technically incorrect. The distinction between “scientifically incorrect” and “technically incorrect” is important because of the difference in the types and amounts of data needed in support of an Appeal Petition.

### Scientifically Incorrect Data

Basis of Formal Appeals	Required Data to Support Appeals	Certified by
Incorrect or inappropriate methodology used in the new study	1. Appeal Petition 2. Explanation as to why alternative hydrologic or hydraulic methodology is more accurate	Professional Engineer
Methodology not correctly applied in the new study; ie. inappropriate or incorrect assumptions in methodology	3. A revised study, including updated hydrologic and/or hydraulic analysis, flood profiles, and floodplain and floodway boundaries, using the alternative methods or data that are believed to be more accurate than those used in the preliminary study	

### Technically Incorrect Data

Basis of Formal Appeals	Required Data to Support Appeals	Certified by
Insufficient or poor quality data in a new study	1. Appeal Petition 2. Data believed to be more accurate than those used in original hydrologic or hydraulic analysis; documentation for source of new data 3. A revised study, including updated hydrologic and/or hydraulic analysis, flood profiles, and floodplain and floodway boundaries, using the alternative methods or data that are believed to be more accurate than those used in the preliminary study	Professional Engineer
Mathematical error in a new study	1. Appeal Petition 2. Information that identifies the error and provides the correct calculation	
Measurement error in a new study	1. Appeal Petition 2. Information that identifies the error and provides the correct measurement	
Physical change in the floodplain since the new study	1. Appeal Petition 2. Information that identifies the change and sufficient topographical and/or structural data for an updated hydraulic analysis 3. Certified topographic maps or other certified ground elevation data of greater detail or more recent than those used for the preliminary FIRM panel in question	Registered Land Surveyor

## **Protest Process**

A formal objection to any new or revised information shown on a Preliminary FIRM submitted during the 90-Day Appeal Period that **does not involve flood elevations** is considered a protest. Protests generally involve comments regarding the delineation of the updated floodplain and/or floodway boundaries, corporate limits, road names, and road locations.

Basis of Formal Appeals	Required Data to Support Appeals	Certified by
Floodplain boundaries, floodway boundaries*	<ol style="list-style-type: none"> <li>1. Protest Petition</li> <li>2. Certified topographic maps or other certified ground elevation data of greater detail and/or more recent than those used for the preliminary FIRM panel in question</li> <li>3. Requested changes annotated on the topographic mapping and preliminary FIRM panel</li> </ol>	Registered Land Surveyor or Interested Individual
Corporate limits, road names or road locations	<ol style="list-style-type: none"> <li>1. Protest Petition</li> <li>2. Community maps in either digital or paper format showing the current information</li> </ol>	Community Official, Registered Land Surveyor, or Interested Individual

\* Dispute of the floodway boundaries may require updated hydraulic modeling and would have to be submitted with proper documentation as an Appeal.

## **Submittal of Appeal and Protest Petitions**

The formal objection and all supporting data shall be submitted to the Chief Executive Officer of the community or to the local official designated by the CEO, such as the local Floodplain Administrator. It is then the community's responsibility to forward this information to FEMA for review and resolution. An interested party or the local community may submit either a formal Appeal or Protest.

The CEO or designated community official should review each formal Appeal or Protest received regarding a Preliminary FIRM to first verify that all supporting documentation is supplied. The community should prepare a statement as to whether the community supports or does not support the formal objections. Any appeal or protest petition received by the community must be forwarded to FEMA before the completion of the 90-day appeal period.

Please send all protests or appeals to the following:

Program Manager, Steve Parker, P.E., CFM  
 Flood Plain and Drainage Management  
 Oak Cliff Municipal Center (OCMC)  
 320 East Jefferson, Room 307  
 Dallas, Texas 75203

## **Resolution of Appeals and Protest Petitions**

An Acknowledgement Letter will be sent notifying the City of Dallas that an Appeal or Protest has been received by FEMA. The supporting data will be reviewed and, if necessary, additional supporting data may be requested. Following the review of all of submitted data, an Appeal Resolution Letter will be sent to the City of Dallas. A revised Preliminary Transmittal Letter, disseminating a revised Preliminary FIRM that incorporates changes made as a result of the Appeal or Protest will be sent to the City, if necessary. The community has 30 days to review and comment on the resolution when necessary. At the end of the comment period and after all resolutions are completed, FEMA issues a Letter of Final Determination to the impacted community, publishes the new or revised BFEs in the Federal Register, and initiates the final production of the FIRMs.