

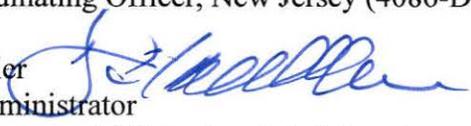


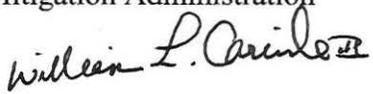
**FEMA**

November 16, 2012

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FROM: David L. Miller   
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SUBJECT: Guidance for use of Best Available Data in complying with  
44 CFR Part 9 and Executive Order 11988 (Floodplain  
Management) for Areas Impacted by Hurricane Sandy in  
New Jersey and New York

This memorandum provides guidance on the requirement in 44 CFR 9.7(c) and Executive Order (EO) 11988 Sec. 2(a)(1) on the use of best available flood hazard information for FEMA-funded actions in areas of New Jersey and New York impacted by Hurricane Sandy.

### **Flood Hazard Data in New Jersey and New York Affected Communities**

Because of the catastrophic nature of Hurricane Sandy, FEMA is committed to providing flood hazard information to guide recovery in situations where the flood hazard maps in place for the NFIP do not best represent current conditions. In those instances, FEMA will be developing improved flood hazard data in coordination with state officials. Until those data are available, the effective Flood Insurance Rate Maps reflect the Best Available Data (see Table 1).

The schedule for completion of the improved flood hazard data will be shared in advance broadly and with the affected FEMA programs, the States, and the communities. Because of the technical nature of these studies and an uneven availability of existing data, the release of data may be staggered across the impacted areas; however, all attempts to be both timely and accurate will be made. In all instances, FEMA will provide not less than 10 days advance notification before a new product is made available to guide decision making.

To ease review, a GIS data layer has been established (<http://184.72.33.183/best/>) that provides the Best Available Data for the Hurricane Sandy affected areas in New Jersey and New York.

This layer will be maintained and will serve as FEMA's definitive depiction of the Best Available Data for the impacted areas. New data, presented after identified key decision points, will not retroactively apply. Rather, its use will be optional. As changes to the Best Available data occur, they will be archived to maintain a clear record of what information was available and when.

Aside from the improved flood hazard data helping to ensure a stronger recovery from Hurricane Sandy, the data will also help reduce future flood insurance costs for those who go beyond current minimum federal requirements. New laws eliminate subsidies and will result in insurance rate increases for many which can be offset by going beyond current minimum requirements. The new data will represent FEMA's estimate of flood hazards that will likely be proposed as official NFIP maps in the near future.

### **NFIP Requirements for Communities on the Use of Draft or Preliminary FIS Data**

FEMA has provided guidance to communities participating in the NFIP 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 draft or Preliminary FIS data for regulating floodplain development are:

- The guidance in FPM 1-98 specifies situations in Zone A (without designated Base Flood Elevations (BFE)) 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. 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.

### **Determining Best Available Data for Recovery and Mitigation Decisions**

As recovery associated with Hurricane Sandy continues and to ensure compliance with 44 CFR Part 9 and EO 11988, it is important to understand what represents best available flood data. The best available flood risk data should be used to determine the zone, including the coastal high hazard area, and for elevation and reconstruction requirements when making recovery and mitigation decisions for FEMA grants. It should also be used in determining requirements for the placement of temporary facilities and Temporary Housing Units.

What is considered best available data depends on 1) the flood hazard data adopted by the community or 2) advisory or preliminary flood hazards data when the base flood elevation have increased or the Zone V/A line has migrated inland.

It should be expected that what constitutes best available data may change over the course of the recovery process. To be consistent with 44 CFR 9.11(d)(6), no project shall be built to a floodplain management standard that is inconsistent with the NFIP or less restrictive community floodplain management regulations. That information must be considered when making recovery decisions. In all cases, if Best Available Data is not clear, any facility or structure damaged by flooding may be considered to be in a floodplain (44 CFR 9.7(b)).

#### Use of Best Available Data for Hazard Mitigation Assistance (HMA) Projects

For HMA projects that have not been obligated as of the date of this memorandum, the data in the attached table and provided in the GIS layer listed above will be used as a minimum design standard unless higher elevation are required by locally adopted codes or standards.

For HMA project utilizing BFEs lower than was used for the BCA analysis, the BCA must re-run to reflect the revised cost and benefits calculated for the lower elevation.

#### Use of Best Available Data for Recovery Projects

Per 44 CFR 9.7(c) and 9.13(d)(1) projects funded through the Recovery programs must utilize the best available flood data to guide recovery decisions. For all Public Assistance projects for which funds have not been obligated as of the date of this memo, the project must be designed using the data in the attached table and provided in the GIS layer listed above (whichever is higher or more restrictive, per 44 CFR 9.11(c)(1)) or higher elevations if they are required by locally adopted code or standards. For placement of temporary housing units under the Individual Assistance program, the data in the attached table and GIS layer provided above must be utilized prior to approving placement of the Temporary Housing Units.

If you have any questions or need additional information regarding this guidance, please contact Keith Turi, Recovery Division, by telephone at (202) 646-4077 or Rachel Sears, Federal Insurance and Mitigation Administration, by telephone at (202) 646-2977.

Cc: Lynn Canton, Regional Administrator, Region II

Deb Ingram, Assistant Administrator, Recovery

James Walke, Acting Deputy Associate Administrator for Mitigation, Federal Insurance and Mitigation Administration

<b>Effective Dates for Coastal Counties in New Jersey and New York As Of 10/29/2012</b>	
<b>County</b>	<b>Effective Date</b>
<b>New Jersey</b>	
Cape May	Community-Specific Maps with Effective Dates Ranging from 10/17/1975 to 7/20/1998
Atlantic	Community-Specific Maps with Effective Dates Ranging from 3/15/1977 to 7/2/2003
Burlington	Community-Specific Maps with Effective Dates Ranging from 5/11/1979 to 9/22/1999
Ocean	9/29/2006
Monmouth	9/25/2009
Middlesex	7/6/2010
Union	9/20/2006
Essex	6/4/2007
Hudson	8/16/2006
Bergen	9/30/2005
<b>New York</b>	
City of New York (Bronx, Richmond, New York, Queens, and Kings)	9/5/2007
Westchester	9/28/2007
Nassau	9/11/2009
Suffolk	9/25/2009

Please see GIS layer at <http://184.72.33.183/best/> for most current data.