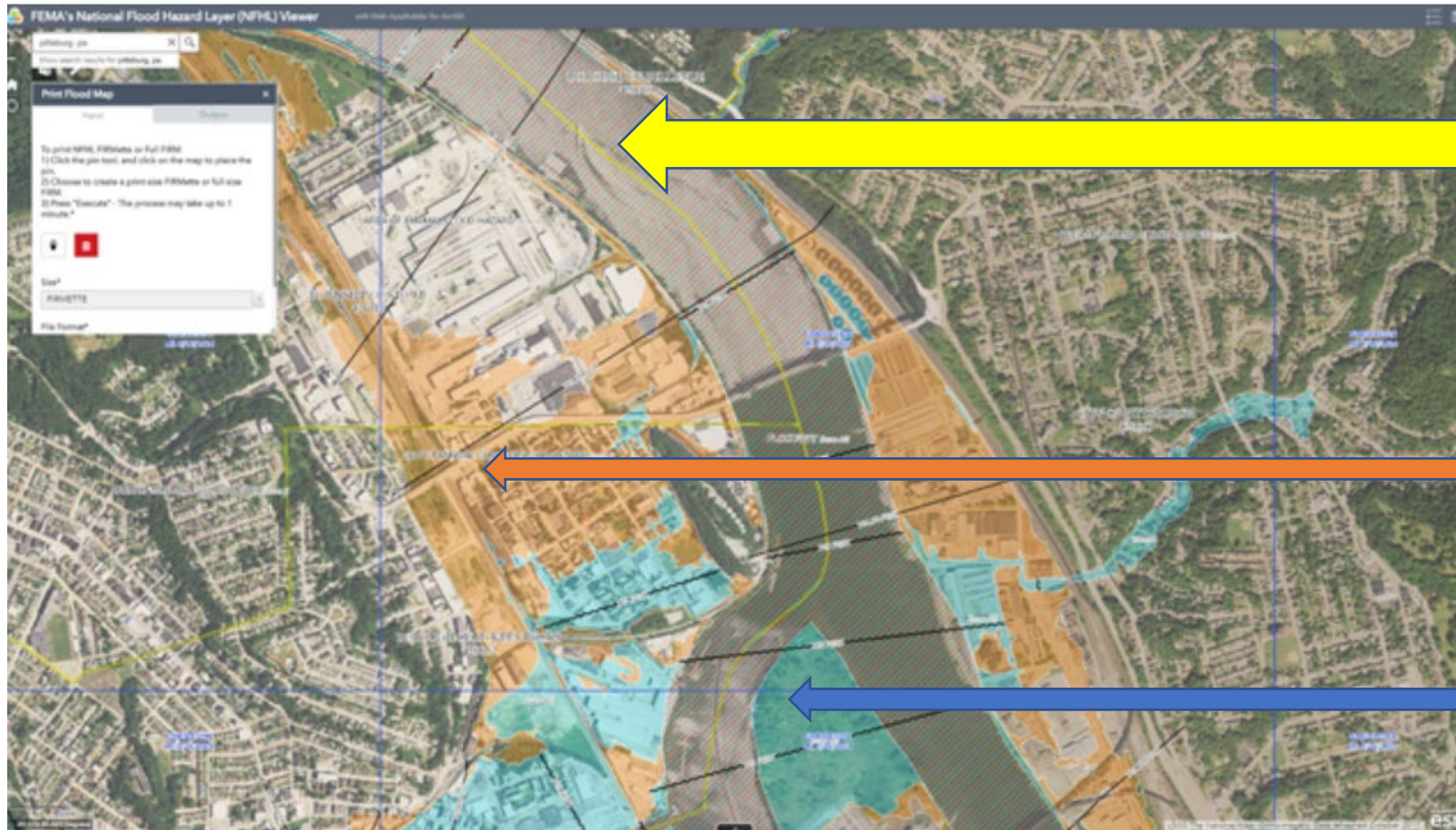


FLOODPLAINS, FLOODWAY AND LOCAL FLOODPLAIN ADMINISTRATORS.

If a proposed action could affect or be affected by the floodplain, FEMA must:

- Identify and evaluate practicable alternatives to locating the action in a floodplain.
- Identify potential direct and indirect impacts associated actions taken the floodplain.
- Minimize the potential adverse impacts to lives and the federal investment, and to the beneficial values of the floodplain.
- Ensure that all requirements for minimization and mitigation are fully implemented.



Regulatory Floodway. Channel of river. No action can be taken in the floodway that will increase water elevation. Permitting will be required for work in floodway. See your Local Floodplain Administrator

Floodplains are lowlands or flat areas near rivers. The Blue is the area subject to a one percent or greater chance of flooding in any given year. It is also called the Special Flood Hazard Area (SFHA). The Brown is the area subject to a 0.2 percent chance of occurring in any given year (500-year floodplain). Floodplain permits issued by the community are required for all project occurring in the Blue SFHA. This is any human activity in the county. See your Local Floodplain Administrator.

Executive Order (EO) 11988 (Floodplain Management) and 44CFR § 9 requires Federal agencies “to avoid to the extent possible the long- and short-term adverse impacts associated with the occupancy and modification of the floodplain and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative.” The EO applies only to federally-funded actions. FEMA’s implementing regulations for the EO are contained in 44CFR § 9 Floodplain Management and Protection of Wetlands.

Floodplains are lowland and relatively flat areas adjoining inland and coastal waters including, at a minimum, that area subject to a one percent or greater chance of flooding in any given year. Wherever in this regulation the term floodplain is used, if a critical action (an activity for which even a slight chance of flooding would be too great) is involved, floodplain shall mean the area subject to inundation from a flood having a 0.2 percent chance of occurring in any given year (500-year floodplain). If a proposed action could affect or be affected by the floodplain, FEMA must:

- Identify and evaluate practicable alternatives to locating the action in a floodplain (44CFR § 9.9).
- Identify potential direct and indirect impacts associated actions taken the floodplain (44CFR § 9.10).
- Minimize the potential adverse impacts to lives and the federal investment, and to the beneficial values of the floodplain (44CFR § 9.11).
- Ensure that all requirements for minimization and mitigation are fully implemented (44CFR § 9.11).

FEMA uses various sources of data to evaluate potential impacts, practicable alternatives and identify appropriate minimization and mitigation measures. The overall analysis is documented as part of the “8-step Decision-Making Process’ described in 44CFR § 9.6. Minimization and mitigation measures may be included as project conditions. Applicants should coordinate with the state and local floodplain administrators on the process for work in the floodplain prior to the start of construction.

The National Flood Insurance Program (NFIP) regulations are contained in 44CFR § 59, § 60, § 65 and §70. Implementation of NFIP regulations is required for any action (federal, state or local) that occurs within the Special Flood Hazard Area (SFHA) as identified on a FEMA Flood Insurance Rate Map (FIRM). Compliance with NFIP regulations is required regardless of the project proponent or funding source. Roles and responsibilities under the NFIP include the following:

- Communities that participate in the NFIP are responsible for regulating all development in their mapped flood hazard areas, issuing permits, and enforcing the requirements of their local floodplain ordinance, **including disaster-related activities such as repair and improvement of damaged buildings, facilities, and infrastructure.**
- States generally are responsible for providing technical assistance to these communities, monitoring community programs, and coordinating between communities and the NFIP. Some States also administer regulatory programs, and many are engaged in flood hazard mapping initiatives.
- FEMA, through administration of the NFIP, promulgates the minimum regulatory requirements, supports State programs, provides technical assistance, monitors community programs, and produces flood hazard maps.

Floodplain development permits issued by the local community are required for all projects (not just FEMA-funded projects) occurring within the SFHA. Development is defined as any human activity “including but not limited to mining; dredging; streets and other paving; bridges; docks; utilities; swimming pools; filling, grading, and excavation; drilling operations; storage of equipment or materials; and formation of manufactured homes, recreational vehicles, or trailer parks” (44CFR § 59.1). Applicants seeking FEMA-funding for a proposed project that is located within the SFHA should contact their local Floodplain Administrator for additional details regarding the permitting process prior to the start of construction, to determine if they must obtain a local floodplain development permit.

Regulatory Floodways are the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation. Communities must regulate development in these floodways to ensure that there are no increases in upstream flood elevations. For streams and other watercourses where FEMA has provided Base Flood Elevations (BFEs), but no floodway has been designated, the community must review floodplain development on a case-by-case basis to ensure that increases in water surface elevations do not occur or identify the need to adopt a floodway if adequate information is available (44CFR § 60.3(c) (10)).

Any project in a Regulatory Floodway must be reviewed to determine if the project will increase flood heights. An engineering analysis must be conducted before a permit can be issued. The community's permit file must have a record of the results of this analysis, which can be in the form of a No-rise Certification. This No-rise Certification must be supported by technical data and signed by a registered professional engineer. It should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the FIRM or Flood Boundary and Floodway Map (FBFM).

The requirement to conduct a hydrologic and hydraulic (H&H) analysis for proposed actions in the floodway is outlined in 44CFR § 60.3(d)(3). Pursuant to NFIP regulations, an analysis is required to show that a proposed project in the floodway will not cause any increase (0.00 feet) in Base Flood Elevations (BFE), which is referred to as a no-rise analysis. Section 60.3(d)(4) states that encroachments into the floodway may cause an increase in BFEs, provided that the community first applies for and receives a Conditional Letter of Map Revision (CLOMR).

Work in the floodway may be eligible if it is functionally dependent or the only practicable alternative and they can obtain a Floodplain Development permit with no-rise certification or complete a Conditional Letter of Map Revision (CLOMR). See 44 CFR §§ 62.8 and 72. Applicants should coordinate with the state and local floodplain administrators on the process for work in the floodway, prior to the start of construction.

Links:

EO 11988: <https://www.fema.gov/executive-order-11988-floodplain-management>

44 CFR §9 <https://www.law.cornell.edu/cfr/text/44/part-9>

44 CFR § 59, § 60, § 65 and §70: https://www.fema.gov/pdf/floodplain/nfip_sg_appendix_e.pdf

NFIP Roles and Responsibilities: https://www.fema.gov/media-library-data/20130726-1734-25045-8378/p758_ch2_r2.pdf

Floodplain Development Permit: <https://www.fema.gov/permit-floodplain-development>

FEMA Floodway: <https://www.fema.gov/floodway>

FEMA No-rise: <https://www.fema.gov/no-rise-certification-floodways>

Executive Order 11988-Floodplains

- ALL WORK in a floodplain is required to have a FDP (Floodplain Development Permit). EVEN return to pre-disaster pursuant to your local ordinances.
- Applicants need to contact their local FP Administrator prior to the start of construction.
- Work to be completed will be required to have FDP prior to closeout, projects will be conditioned accordingly.
- ALL completed work will need a FDP pursuant to 2 CFR 200.300.
- Project sites located within floodplains without FDP or approval from local floodplain managers can risk compliance approval.