than 45 days after borrower notification be not be reviewed and would be returned.

#### Background

Section 102(b) of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994 (NFIRA), 42 U.S.C. 4012a(b), requires that federally regulated lending institutions and federal agency lenders review the National Flood Insurance Program (NFIP) map for the community in which they are contemplating making, increasing, extending, or renewing any loan secured by improved real estate to determine whether the building or mobile home is located in an identified Special Flood Hazard Area, and if so, require the purchase of flood insurance for the building or mobile home. Section 524(e)(3)(A) of the NFIRA provides for the borrower and lender jointly to request that FEMA review the determination. There may be cases in which there is a disagreement regarding the accuracy of a determination, and this procedure will confirm or disprove the accuracy of the original determination. In many cases, a third party performs these determinations for lenders. The NFIRA states that a lender may provide for the acquisition or determination of information regarding special flood hazards to be made by a person other than the lender only to the extent such person guarantees the accuracy of the information. Because lenders rely on information provided by these third parties to ensure compliance with mandatory flood insurance purchase requirements, lenders have ample incentives to ensure the quality of this information. Therefore, FEMA expects that these determinations would be done correctly and FEMA's review of these determinations will be necessary only in unusual cases. If additional information (such as a property survey) becomes available after the initial determination was performed, FEMA would expect that this additional information would be presented to the party making the determination for consideration before asking FEMA to review the determination.

### **Standard Hazard Determination Form**

As mandated by Section 528 of the NFIRA (42 U.S.C. 4104b), FEMA is developing a Standard Hazard Determination Form to be used by all regulated lenders and federal agency lenders making flood hazard determinations for improved property used to secure loans. The Standard Hazard Determination Form was published as a proposed rule in the Federal Register on April 7, 1995, 60 FR 17758. We propose that when the borrower and lender ask FEMA to make a flood hazard determination review, they would provide to FEMA the completed Standard Hazard Determination Form together with all other technical information used in making the flood hazard determination. After reviewing that technical information, FEMA would issue a written determination concurring with or disagreeing with the original determination, and stating whether the National Flood Insurance Program map indicates the subject building or mobile home is in the SFHA.

#### Fee for Review by FEMA

FEMA would initiate cost recovery procedures for its review of determinations. This action would reduce expenses to the flood insurance policyholders and would contribute to maintaining the NFIP as self-supporting. We anticipate that a flat fee of \$60 would cover a majority of the costs associated with reviewing, recording, processing, and dispatching FEMA determinations. This fee would also apply to a finding of insufficient information. This fee would be reviewed on an annual basis and would be changed, if necessary, by publishing a notice in the Federal Register.

#### Effect on Existing Letter of Map Amendment (LOMA)/Letter of Map Revision (LOMR) Procedures

The procedures proposed under this part would not result in a revision to an NFIP map and are not intended to replace those procedures already provided in 44 CFR Parts 65 and 70. If additional technical data, such as elevation information about the building or mobile home, are provided with the request for review of a determination, FEMA would not automatically initiate the LOMA or LOMR process for the property. A request for a LOMA or LOMR may be submitted at any time and must be presented following the procedures established under 44 CFR parts 70 and 65 for those requests.

#### **National Environmental Policy Act**

This proposed rule would be categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

## **Regulatory Flexibility Act**

The Deputy Director certifies that this rule would not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because it would not be expected (1) to have significant secondary or incidental effects on a substantial number of small entities, nor (2) to create any additional burden on small entities. Moreover, establishing a procedure for FEMA's review of determinations is required by the National Flood Insurance Reform Act of 1994, 42 U.S.C. 4012a. A regulatory flexibility analysis has not been prepared.

#### **Regulatory Planning and Review**

This proposed rule would not be a significant regulatory action under Executive Order 12866 of September 30, 1994, Regulatory Planning and Review, 58 FR 51735. To the extent possible this proposed rule adheres to the principles of regulation as set forth in Executive Order 12866. This proposed rule has not been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866.

## **Paperwork Reduction Act**

This proposed rule would not involve any collection of information for the purposes of the Paperwork Reduction Act.

## **Executive Order 12612, Federalism**

This proposed rule would involve no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

# Executive Order 12778, Civil Justice Reform

This proposed rule would meet the applicable standards of section 2(b)(2) of Executive Order 12778.

### List of Subjects in 44 CFR Part 65

Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is proposed to be amended to read as follows:

#### PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

1. The authority citation for part 65 is proposed to be revised to read as follows:

**Authority:** 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Section 65.17 is proposed to be added to read as follows: