

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

RIN 3067-AC34

Standard Flood Hazard Determination Form

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule establishes a standard form for determining whether a building or mobile home is located within an identified Special Flood Hazard Area (SFHA), whether flood insurance is required, and whether federal flood insurance is available. Use of this form will help ensure that required flood insurance coverage is purchased for buildings and mobile homes located in SFHAs, and will help federal entities for lending regulation in assuring compliance with these purchase requirements.

EFFECTIVE DATE: July 6, 1995.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2756, or by facsimile at (202) 646-4596 (not toll-free calls).

SUPPLEMENTARY INFORMATION: As part of its implementation of the National Flood Insurance Reform Act of 1994 (NFIRA), FEMA published a proposed rule (60 FR 17758, April 7, 1995) to establish a standard form for determining whether a building or mobile home is located within an identified Special Flood Hazard Area (SFHA), if flood insurance is required, and if federal flood insurance is available. The comment period ended officially on May 8, 1995; however, we considered comments received by May 12, 1995, in our preparation of this final rule.

This final rule addresses FEMA's requirement under 42 U.S.C. 4012a(b) to develop the Standard Flood Hazard Determination Form (SFHDF), and provides information on completing the form. The regulating agencies' rule regarding use of the form is published today in this issue of the **Federal Register**.

We received comments from 98 individuals from 34 states, as follows: 77 lenders, nine trade associations, nine map determination companies, one secondary market organization, one federal agency representative, and one unknown (no return address or signature provided). Six respondents

provided a general comment concurring with the proposed form. Seventeen respondents indicated that they were generally opposed to the form, and 12 respondents indicated that the proposed form would create an added cost or burden.

The issues receiving the most number of comments were requests for the addition of borrower information (25 comments), requests to allow lenders more flexibility (21 comments), comments regarding the wording of the amount of required flood insurance (21 comments), and comments on the form's format (22 comments). FEMA met with the federal entities for lending regulation and asked for their guidance on these issues as part of the preparation of this final rule. Our responses to the comments are based on our interpretation of FEMA's authority under the NFIRA and on the guidance from the federal entities for lending regulation.

We summarize below the comments we received and our response to them.

Purpose of the Form

Additional borrower information. We received many comments asking that we add more information to the form, such as borrower information, borrower signature, current owner's name, lender's signature, life of loan coverage, property identification number, fee charged for determination, loan amount, age of structure, base flood elevation, insurance policy information, etc.

Response. The SFHDF will be completed for every loan. We chose to keep it as brief and concise as possible. In general, we did not include on the form additional items such as borrower notification, which will impact a small percentage of loans. However, we did create a space labeled "Loan Identifier," which the lender may use for loan identification purposes. We enlarged the space allotted for comments. This space may be used in any manner desired.

Notification compliance. Some comments suggested that the borrower should sign the form to comply with the notification requirements.

Response. The SFHDF does *not* meet the notification requirements set forth in Sections 524 and 527 of the NFIRA. The SFHDF may be used as part of the borrower's notification; however, as directed by the NFIRA, the form is for determining whether a building or mobile home is located in an SFHA and whether flood insurance is required and if federal flood insurance is available.

Use of form. Several people asked when the form is to be used. Three respondents interpreted the NFIRA as

not requiring the SFHDF if the property is not located in the SFHA.

Response. The NFIRA states that the form is to be used "for determining, in the case of a loan secured by improved real estate or a mobile home, whether the building is located in an area . . . having special flood hazards. . . ." We interpret this to mean that the form is to be used for all loans, not only for loans for which the building or mobile home is in the SFHA. The form will document that a determination was made for a building or mobile home, whether it is in or out of the SFHA, and whether flood insurance is required and if federal flood insurance is available.

Lender Processing and Loan Information

Format. We believe that the format of the form is efficient for use in a standard loan transaction. The form is formatted so that the loan application and lender information is consolidated at the top, followed by the flood hazard determination information.

Loan information. Many people commented that the loan number and date of loan would not be known at the time of loan application. Comments also indicated that the meaning of the date of loan was unclear, because it could be the date of application or the date of closing.

Response. We replaced the spaces labeled "loan number" and "date of loan" with one space labeled "loan identifier." Use of this space is optional. Lenders may use this space to identify loan applications.

Lender Name and Identification Number (ID No.)

Several individuals indicated that the lender name and ID number provide no useful information, require extra preparation by the bank, and should be deleted. Others did not understand the purpose of the ID number, and commented that using a lender's FDIC number, credit union number, or Farm Credit System number may imply that these agencies have some responsibility in the flood hazard determination process. A mortgage banker commented that his institution does not fall into the categories defined in the instructions for Lender ID No., but they do sell loans to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and to the Government National Mortgage Association, with a different ID No. for each agency. This lender asked if this portion of the SFHDF could be left blank until the loan is delivered to the purchasing entity.