

information indicates that the structure and surrounding ground may be above the flood elevation, the elevation data may be submitted to FEMA under the Letter of Map Amendment (LOMA)/Letter of Map Revision (LOMR) procedures and a map revision requested to remove the structure from the designated floodplain. However, the structure officially remains in the SFHA, regardless of elevation data, until FEMA revises the designated SFHA affecting to the structure.

**More than one LOMA or LOMR.** Several respondents asked how to handle situations where more than one LOMA or LOMR have been issued affecting the property.

**Response.** The map action affecting the building or mobile home (revised panel, LOMA, or LOMR) with the most recent date must be used to make a determination for the building or mobile home.

### **Review of Determinations**

Section 524 of the NFIRA authorizes FEMA to review flood hazard determinations. One person indicated that some readers of the NFIRA understand Section 524 "to provide a means for obtaining a flood hazard determination directly from FEMA without the need for an outside service to track the flood maps or for the lender to maintain and analyze the flood maps."

**Response.** This is not a correct interpretation. Section 524 of the NFIRA states that the borrower and lender for a loan secured by improved real estate or a mobile home may jointly request FEMA to review a determination of whether the building or mobile home is in an identified SFHA.

Section 524 authorizes a review process, whereby a disputed flood hazard determination may be jointly submitted to FEMA for a final determination on whether a building or mobile home is located in an identified SFHA. FEMA must either affirm or disapprove the existing flood hazard determination. Section 524 does not authorize FEMA to make the flood hazard determination in the first instance. A flood hazard determination review differs from a LOMA or a LOMR, in that a LOMA or LOMR revises the FIRM.; the flood hazard determination review does not.

### **Determination Authority and Responsibility**

Several people asked who can make determinations and who is responsible for making determinations.

**Response.** The lender is ultimately responsible for the determination of

whether a building or mobile home is in the SFHA and whether flood insurance is required. However, a third party may be used to acquire the information. In many areas, community or state officials, surveyors, appraisers, realtors, and map determination companies provide flood hazard information to lenders. These third parties may complete the form for the lender or the lender may use the information provided by the third party to complete the SFHDF. The accuracy of third party information must be guaranteed by the third party.

The lender must take the responsibility for making determinations, regardless of whether the lender actually makes the determination or acquires it from another source. Only the lender can make the determination whether flood insurance is required for a loan. The NFIRA states that the lender may provide for the acquisition or determination of flood hazard information to be made by a person other than the lender only to the extent such person guarantees the accuracy of the information.

### **Third Party Guarantee**

Nine comments requested that space be allotted on the form for a guarantee for use by the party making the determination.

**Response:** As stated earlier, we intentionally limited the amount of information contained on the form. The NFIRA does not mandate a guarantee in the contents of the form. The law states that banks may provide for the acquisition or determination of information regarding special flood hazards to be made by a party other than the lender only to the extent such person guarantees the accuracy of the information. Many services are provided to the lending community in the course of a loan application. The information provided is generally guaranteed by a contract for services or information, or because an individual is licensed or has expertise in a particular field. The guarantee for a flood hazard determination performed by a third party is based on the lender's needs and negotiations between the third party and the lender. This is considered standard business practice.

### **Community Participation in the NFIP**

Some comments suggested that the community's participation status be included in the form, because that affects the amount of available flood insurance.

**Response.** We included a space on the form for indicating whether the

community participates in the Regular or Emergency Program of the NFIP.

### **Unmapped, Non-participating, and Non-identified Communities**

Many questions were asked about unmapped or non-participating communities, as well as communities not identified by the NFIP as being floodprone.

**Non-participating communities.** Non-participating communities may still have NFIP maps; if so, the NFIP community jurisdiction and NFIP map information must be completed.

**Unmapped communities.** If no NFIP map is in effect for the location where the building or mobile home is located, check the "No NFIP Map" box.

**NFIP community number.** Not every non-participating community in the United States has an NFIP community number; if no NFIP community number exists, specify "none" for "NFIP Community Number." The instructions have been clarified for these last two issues.

**Determining whether community participates in the NFIP.** One person asked: If a mortgaged property is located in a flood zone, but the community is not currently participating in the NFIP, how does a lender learn if or when a community becomes a participant?

**Response.** FEMA has community status information available and is in the process of centralizing the information and making it available through a 1-800 number.

**Federal disaster assistance/non-participating community.** If a mortgaged residence is located in an identified special flood area, but the community is not participating in the NFIP, will the property be eligible for federal disaster assistance if the borrower purchases flood insurance?

**Response.** Structures located in communities not participating in the NFIP are not eligible for Federal flood insurance, but might find privately placed flood insurance. Even if the borrower purchases flood insurance through the private insurance market, individual and family grants cannot be made for acquisition or construction purposes where the structure to which the grant assistance relates is located in a designated special flood hazard area, unless the community in which the structure is located agrees to participate in the NFIP within 6 months after the declared disaster date.

### **Coastal Barrier Resources System (CBRS)**

**CBRS determinations.** Some writers asked that the form be modified to release the party making the