

Promulgate Concurrent Regulations on Form and Its Use

Three people commented that the regulations regarding the use of the SFHDF and the SFHDF itself be published at the same time.

Response. This final rule and the regulations issued by the federal entities for lending regulation regarding the use of the SFHDF are published today concurrently.

Flood Insurance Availability

A lender wrote regarding the instructions for the section titled "Federal Flood Insurance Availability." The statement in the instructions is "to obtain federal flood insurance, provide a copy of this completed form to an insurance agent." The lender did not feel that this was the most appropriate manner in which a customer should be directed to obtain flood insurance.

Response. This form provides most of information that an insurance agent needs to write a flood insurance policy, so having a copy of the form would be useful to the customer. We revised the wording on the instructions to include the word "may," to make the direction optional.

Completion of sections. Several respondents indicated that "Federal Flood Insurance Availability" should always be completed, not simply for buildings or mobile homes located in an identified SFHA. Some lenders will require flood insurance irrespective of the mandatory purchase requirement, and this information would be useful to them.

Response. We revised the form to remove the option of only completing some of the sections.

Section name. A trade association representative indicated that "Federal Flood Insurance Availability" should be renamed "Participating/Non-participating Community". This person further stated that our titling of this section introduces confusion into the purpose of the section.

Response. Determining whether federal flood insurance is available is one of the purposes of the form. There are other factors besides participation and non-participation (i.e., location in the CBRS) that impact the availability of federal flood insurance. No change has been made to the title of this section.

Clarification of Determination

Section. One person suggested deleting the final two sentences contained in the Determination section regarding flood insurance requirements, because these statements may preclude the lender's option to require flood insurance if the collateral property is not within an

identified SFHA. Another suggested that the wording be revised from "If yes, flood insurance may be required * * *," to "If yes, flood insurance will be required * * *."

Response. We revised the form to state, "If yes, flood insurance is required * * *." The form presents the minimum federal requirements regarding the purchase of flood insurance, and does not preclude a lender from exceeding the minimum federal requirements. Lenders should be aware that NFIP policies do not provide coverage in excess of the value of the building/mobile home/personal property.

Multiple Buildings and Condominiums

Multiple buildings/single property. Eleven people asked that no separate form be required for a property that contains multiple buildings, and suggested that a schedule be attached for properties that contain several buildings.

Response. We agree that the SFHDF could be completed for the principal structure on a parcel of land, and a schedule attached for any additional buildings (used as collateral for a loan) located on the parcel. This schedule should be referred to in the comments section of the SFHDF. The instructions have been revised to reflect these procedures. Even though the determination can be documented in this manner, a separate flood insurance policy will be necessary for each building.

Condominiums. One person asked that the form be enhanced for use for condominiums.

Response. Similar to what has been described above for multiple buildings, information regarding a condominium structure could be attached to the form and referred to in the comments section.

Miscellaneous Comments

One information source. One person asked that all required information be available from one source.

Response. FEMA is establishing a 1-800 number to provide information regarding the NFIP.

Flood maps. A lender asked that township and range lines be added to NFIP maps for rural area, and stated that the latitude and longitude should be used in determining the location of a property.

Response. FEMA agrees that both of these items are useful tools in aiding flood hazard determinations and has initiated an effort to digitize FIRMs. The use of digital FIRM information together with coordinates such as latitude and

longitude will assist in performing flood hazard determinations.

Community jurisdiction. One lender commented that it is unclear from the instructions how a lender determines which community has land-use jurisdiction for a parcel of land, and suggested that FEMA follow the map data in this instance as well.

Response. This issue would impact a lender only when adjoining communities have differing NFIP participation status; otherwise, flood insurance availability is unaffected. Nevertheless, land-use jurisdiction is determined by which community has authority to adopt and enforce floodplain management regulations for the structure on question.

National Environmental Policy Act

This final rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation, 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 the SFHDF 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 final rule is not a significant regulatory action under Executive Order 12866 of September 30, 1994, Regulatory Planning and Review, 58 FR 51735. To the extent possible, this rule adheres to the principles of regulation set forth in Executive Order 12866. This rule has not been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866.

Executive Order 12612, Federalism

This final rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.