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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

RIN 3067-AC34

Standard Hazard Determination Form

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: FEMA is developing a standard form for determining whether a structure is located within an identified Special Flood Hazard Area (SFHA) and whether flood insurance may be required and is available. Use of this form will ensure that required flood insurance coverage is purchased for buildings located in an SFHA, and will assist federal entities for lending regulation in assuring compliance with these purchase requirements.

DATES: We invite your comments on this proposed form, which should be submitted on or before May 8, 1995.

ADDRESSES: Send written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (facsimile) (202) 646-4536.

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: 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 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 property 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 528 of the NFIRA (42 U.S.C. 1365(a)) directs that FEMA ``shall develop a standard form for determining, in the case of a loan secured by improved real estate or a mobile home, whether the building or mobile home is located in an area identified by the Director [of FEMA] as an area having special flood hazards and in which flood insurance under this title is available." The purpose of the form is to determine whether a structure is located within an identified Special Flood Hazard Area (SFHA) and whether flood insurance may be required and is available. Use of this form will ensure that required flood insurance coverage is purchased for buildings located in an SFHA, and will assist federal entities for lending regulation in assuring compliance with these purchase requirements.

Section 528(c) of the NFIRA (42 U.S.C. 1365(c)) requires that federal entities for lending regulation shall by regulation require the use of this form by regulated lending institutions. Each federal agency lender shall also, by regulation, provide for the use of the form with respect to any loan made by such federal agency lender. The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation and the Government National Mortgage Association shall require the use of the form with respect to any loan purchased by such entities. Rules specifying the use of this form will be published separately by these federal agencies. However, as required by the NFIRA, FEMA is presenting the form itself in this proposed rule to provide an opportunity for review and comment.

The NFIRA also directs FEMA to consult with representatives of the mortgage and lending industry, the federal entities for lending regulation, the federal agency lenders and any other appropriate individuals in developing this form. Before publishing this proposed rule, FEMA held an informal 30-day review period. We provided a copy of a two-page draft standard hazard determination form to over 400 individuals, agencies and groups representing the following interests: Federal entities for lending regulation, federal agency lenders, government-sponsored enterprises for housing, lenders, insurance agents, flood zone determination companies, attorneys, trade associations, professional surveyors and engineers, and floodplain managers. We received a total of 74 comments by February 16, 1995. The breakdown of respondents is as follows: Seven federal entities for lending regulation, federal agency lenders, and government-sponsored entities for housing; 10 lenders; 14 insurance agents; 12 flood zone

determination companies; nine associations representing bankers, credit unions, floodplain managers, and surveyors; one engineering firm; one software corporation; five state/local floodplain managers; and 15 other individuals.

There were several recurring themes in the comments, which have been addressed in the current version of the form. The focus of the form has been significantly narrowed. Much extraneous information has been deleted and the form has been shortened to one page. We prepared a one-page set of instructions to accompany the form. The instructions refer to the source for obtaining information needed to complete the form. All references to "property" have been replaced with "building/mobile home." An entry for the amount of flood insurance required by the lender has been included. The amount of space available for the property address has been enlarged. The sections of the form have been streamlined, and the lender information is clearly separated from the determination section. Some sections of the form may be left blank, depending on the determination. Additional space was provided for comments and for the preparer's information.

We received many comments regarding the availability of the form in an electronic format. The NFIRA states that the form may be used in a printed, computerized, or electronic manner. Once finalized, the form will be made available by FEMA in an electronic format. We anticipate that a standard format common to all potential users will be employed for this electronic version.

Some of the questions we received during the informal review period related to use of the form, for example: will the form content be mandatory or will the use of the form be mandatory? Section 528(c) of the NFIRA (42 U.S.C. 1365(c)) mandates that

"Federal entities for lending regulation shall by regulation require the use of the form under this section by regulated lending institutions. Each [[Page 17759]] Federal agency lender shall by regulation provide for the use of the form with respect to any loan made by such Federal agency lender. The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and the Government National Mortgage Association shall require the use of the form with respect to any loan purchased by such entities." The federal entities for lending regulation, federal agency lenders, and government-sponsored entities for housing will establish the regulations and guidelines regarding the use of the form later.

We also received comments regarding review of determinations by FEMA, outlined in Section 524 of the NFIRA. We anticipate publishing a proposed rule for these procedures soon.

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 Associate Director, Mitigation Directorate, 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 Standard Hazard Determination Form 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.

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 as follows:

PART 65--IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

1. The authority citation for Part 65 is 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 65.16 is added to read as follows:

Sec. 65.16 Standard Hazard Determination (Flood Hazards) Form and Instructions.

Section 528 of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 1365(a)) directs that FEMA ``shall develop a standard form for determining, in the case of a loan secured by improved real estate or a mobile home, whether the building or mobile home is located in an area identified by the Director as an area having special flood hazards and in which flood insurance under this title is available." The purpose of the form is to determine whether a structure is located within an identified Special Flood Hazard Area (SFHA) and whether flood insurance may be required and is available. Use of this form will ensure that required flood insurance coverage is purchased for buildings located in an SFHA, and will assist federal entities for lending regulation in assuring compliance with these purchase requirements. The Standard Hazard Determination (Flood Hazards) form and accompanying instructions are found below in Appendix A to Part 65.

3. Appendix A to Part 65 is added at the end of Part 65 as follows:

Appendix A to Part 65--Federal Emergency Management Agency, Standard Hazard Determination (Flood Hazards) Form and Instructions.

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Standard Hazard Determination (Flood Hazards) Instructions

Section I

2. Lender ID. No.: FDIC-insured lenders should indicate their FDIC Insurance Certificate Number; Federally-insured credit unions should indicate their charter/insurance number; Farm Credit institutions should indicate their UNINUM number.

5. The lender should attach legal property description only if space provided is insufficient. Describe the property in sufficient detail to locate the specific building or mobile home accurately; a

postal address in a rural area may be sufficient.

Section II

A. Determination: Self-explanatory.

B. Community Jurisdiction. The 6-digit National Flood Insurance Program (NFIP) community number can be determined by consulting the NFIP Community Status Book or can be found on the NFIP map; copies of either can be obtained by calling 1-800-xxx-xxxx. For areas that may have been annexed by one community but are shown on another community's NFIP map, the Community Number for the community with land-use jurisdiction over the area should be used.

C. NFIP Data Affecting Building/Mobile Home. The information in this section (excluding the LOMA/LOMR information) is obtained by reviewing the NFIP map on which the building/mobile home is located. If no NFIP map exists, check the box under "No NFIP Map".

NFIP Maps. The current NFIP map, and a pamphlet titled "Guide to Flood Maps" (FEMA-258) may be obtained by calling 1-800-xxx-xxxx.

LOMAs and LOMRs. If a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) has been issued by FEMA since the current Map Panel Effective/Revised Date that revises the flood hazards affecting the building or mobile home, check "yes" and specify the date of the letter; otherwise, check "no". Information on LOMAs and LOMRs is available from the following sources:

1. The community's official copy of its NFIP map should have a copy of all subsequently-issued LOMAs and LOMRs attached to it.

2. For LOMAs and LOMRs issued on or after October 1, 1994, FEMA publishes a list of these letters twice a year as a compendium in the Federal Register; a subscription service providing actual copies of these letters semi-monthly is also available. To inquire about these two services, call 1-800-xxx-xxxx.

3. Information about most LOMAs and LOMRs issued since 1983 nationwide is contained in FEMA's Community Information System. An electronic listing may be requested, and may be limited to specific communities or states, if desired. For information on this service, call 1-800-xxx-xxxx.

D. Federal Flood Insurance Availability. To obtain Federal flood insurance, provide a copy of this completed form to an insurance agent. Federal flood insurance is available to all residents of a community that participates in the NFIP. Community participation status can be determined by consulting the NFIP Community Status Book. Federal flood insurance is prohibited in designed Coastal Barrier Resources Areas (CBRAs) for buildings or mobile homes built or substantially improved after the date of the CBRA designation. An information sheet explaining CBRAs may be obtained by calling 1-800-

xxx-xxxx.

E. Comments. This form only requires a determination regarding a single building's or mobile home's relation to a specific Flood Hazard Area. If the person making the determination wishes to add additional information regarding flood hazards (such as the property's location with respect to floodways, etc.), he or she may do here.

F. Preparer's Information. Self-explanatory.

Other Information

Multiple Buildings. Use a separate form for each building or mobile home. A separate flood insurance policy is required for each building or mobile home.

Guarantees regarding information. Determinations on this form made by persons other than the lender are acceptable only to the extent that the accuracy of the information is guaranteed.

Dated: March 30, 1995.

Richard T. Moore,

Associate Director for Mitigation.

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