

2. Adding the language "4955(b)," immediately after "4952(b)."

§ 301.6863-1 [Amended]

Par. 15. Section 301.6863-1 is amended as follows:

1. Paragraph (a)(1) is amended by adding the language ", or under section 6852 (referred to as a political assessment for purposes of this section)" immediately after "for purposes of this section".

2. Paragraphs (a)(3) first sentence, (a)(4) last sentence, and (b) first sentence are amended by adding the language "or political assessment" immediately after "jeopardy assessment" in each place it appears.

3. Paragraph (b) is amended by adding the language "(or political assessment)" immediately after "jeopardy" in the last sentence.

§ 301.6863-2 [Amended]

Par. 16. In § 301.6863-2, paragraph (a) introductory text, the first sentence is amended by adding the language "6852," immediately after "section 6851,".

Par. 17. Section 301.7409-1 is added under the undesignated centerheading "Civil Actions by the United States" to read as follows:

§ 301.7409-1 Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.

(a) *Letter to organization.* When the Assistant Commissioner (Employee Plans and Exempt Organizations) concludes that a section 501(c)(3) organization has engaged in flagrant political intervention and is likely to continue to engage in political intervention that involves political expenditures, the Assistant Commissioner (Employee Plans and Exempt Organizations) shall send a letter to the organization providing it with the facts based on which the Service believes that the organization has been engaging in flagrant political intervention and is likely to continue to engage in political intervention that involves political expenditures. The organization will have 10 calendar days after the letter is sent to respond by establishing that it will immediately cease engaging in political intervention, or by providing the Service with sufficient information to refute the Service's evidence that it has been engaged in flagrant political intervention. The Internal Revenue Service will not proceed to seek an injunction under section 7409 until after the close of this 10-day response period.

(b) *Determination by Commissioner.* If the organization does not respond

within 10 calendar days to the letter under paragraph (a) of this section in a manner sufficient to dissuade the Assistant Commissioner (Employee Plans and Exempt Organizations) of the need for an injunction, the file will be forwarded to the Commissioner of Internal Revenue. The Commissioner of Internal Revenue will personally determine whether to forward to the Department of Justice a recommendation that it immediately bring an action to enjoin the organization from making further political expenditures. The Commissioner may also recommend that the court action include any other action that is appropriate in ensuring that the assets of the section 501(c)(3) organization are preserved for section 501(c)(3) purposes. The authority of the Commissioner to make the determinations described in this paragraph may not be delegated to any other persons.

(c) *Flagrant political intervention.* For purposes of this section, *flagrant political intervention* is defined as participation in, or intervention in (including the publication and distribution of statements), any political campaign by a section 501(c)(3) organization on behalf of (or in opposition to) any candidate for public office in violation of the prohibition on such participation or intervention in section 501(c)(3) and the regulations thereunder if the participation or intervention is flagrant.

(d) *Effective date.* This section is effective December 5, 1995.

§ 301.7422-1 [Amended]

Par. 18. In § 301.7422-1, paragraphs (a) introductory text, (c) introductory text and (d) are amended by adding the language "4955," immediately after "4952,".

§ 301.7611-1 [Amended]

Par. 19. In § 301.7611-1, A-6, the first sentence is amended by adding the language "or 6852," immediately after "section 6851".

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: October 26, 1995.
Leslie Samuels,
Assistant Secretary of the Treasury.
[FR Doc. 95-29094 Filed 12-4-95; 8:45 am]

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**FEDERAL EMERGENCY
MANAGEMENT AGENCY**

44 CFR Part 65

RIN 3067-AC38

**Review of Determinations for Required
Purchase of Flood Insurance**

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule establishes the procedures for FEMA's review of determinations whether a building or manufactured home is located in an identified Special Flood Hazard Area. The determination review process will provide an opportunity for borrowers and lenders of loans secured by improved real estate to resolve disputes regarding contested determinations.

EFFECTIVE DATE: January 2, 1996.

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 (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 31442, June 15, 1995) to establish the procedures for its review of determinations whether a building or mobile home is located in an identified Special Flood Hazard Area. The comment period ended on August 14, 1995. The proposed rule used the term "mobile home" for consistency with the statute. However, the term "manufactured home" is preferred in the industry, and is specifically defined in both the National Flood Insurance Program (NFIP) regulations at 44 CFR part 59, and in the standard flood insurance policy. Therefore, the term "manufactured home" will be used in this final rule.

This final rule addresses FEMA's requirement under 42 U.S.C. 4012a(e)(3) to review a determination whether a building or manufactured home is located in an identified Special Flood Hazard Area (SFHA) if jointly requested by the borrower and lender for a loan secured by improved real estate or a manufactured home. FEMA will begin accepting requests for determination reviews under this regulation on January 2, 1996. Requests should be mailed to the following locations:

For Minnesota and locations east of the Mississippi River: Determination Review Coordinator, c/o Dewberry &

Davis, P.O. Box 2020, Merrifield VA 22116-2020.

For Louisiana and locations west of the Mississippi River: Determination Review Coordinator, c/o Michael Baker Jr., Inc., 3601 Eisenhower Avenue, Alexandria VA 22304-6439.

We received comments from 25 organizations and individuals, as follows: 12 lenders, 9 associations, 3 third party determinators, and 1 consultant. The greatest number of comments related to who pays the requested fee (12 comments). Others commented on whether FEMA will accept individual requests (9 comments), whether and when borrowers are required to purchase flood insurance (6 comments). We also received 6 comments stating that FEMA should not require copies of NFIP maps to be submitted because it should already have them on file. Summarized below are the comments we received and our responses to them.

Fees

The \$60.00 fee for FEMA's review of determinations, contained in the proposed rule, has been increased to \$80.00, based on FEMA's anticipated costs to process reviews of determinations. The \$80.00 fee does not completely cover FEMA's costs, and contains some subsidy to the requestor. The costs for this service will be monitored and revised at the beginning of FY 1997, if necessary.

Determination of fee. Two responders asked how the fee was determined.

Response. The amount of time required to handle, record, document, and respond to these requests was estimated based on our experience with high volumes of similar types of requests. Using current \$40 per hour fee rates for the existing Letter of Map Revision (LOMR) review process, we estimated the \$80 fee based on the anticipated steps and time required to review a determination and process the request.

Fee is excessive. Five responders felt that the fee is excessive and more than commercial third party determinators charge for the same service.

Response. The vast majority of flood determinations are for structures well away from the SFHA. These determinations can be done very quickly using automated processes at very low cost. For example, a third party determinator may determine that the only area of a community having SFHAs has a specific zip code. Any time that a third party determinator gets a request for a determination in that community it first checks the zip code. If it is any

zip code other than the one having SFHAs, a determination of "Not in SFHA" can be made quickly. This determination takes only minutes and costs are minimal. Only when a request for a determination is for a property with the zip code containing SFHAs is more effort required. Most of these determinations are for structures well away from the boundary of the SFHA and are clearly shown in or out of the SFHA.

Determinations where a structure is located near the edge of a mapped SFHA are the most complex because additional review is often required to locate the structure accurately on the NFIP map. While these latter determinations cost the determinator more, the inexpensive determinations comprise the vast majority of determinations made. We expect that FEMA's determination reviews will cost more because we anticipate receiving primarily requests for structures near the boundary of mapped flood hazards, where a review of the technical data used in making the determination and comparing it to the printed map will be required in order to issue a response.

Multiple structures. One commenter asked how the fee would apply to multiple structures.

Response. One fee will apply to each Standard Flood Hazard Determination Form (SFHDF) submitted. Generally, an SFHDF is prepared for a single structure used as loan collateral. If a request for a determination review includes multiple buildings, the fee will be based on the number of SFHDFs included in the request.

Authority. Two responders requested that FEMA cite the specific authority for imposing a fee.

Response. The authority for FEMA to charge a fee is at 31 U.S.C. 9701, which allows Federal agencies to recover costs associated with providing something of value to a customer.

Responsibility and Disclosure. Almost half of the responders asked who would pay the fee. Two responders asked how the fee for a determination review related to the Real Estate Settlement Procedures Act, if this fee was considered a finance charge, and if the fee needed to be disclosed.

Response. These issues were sent to the Federal Financial Institutions Examination Council for the Council's review and advice. We understand that they will be considered by the Council during the comment period (October 18-December 18, 1995) following the publication of the proposed rule for loans in areas having special flood hazards (60 FR 53962, October 18, 1995).

Notification. One commenter indicated that FEMA should not rely on the Federal Register for notification of the initial fee or subsequent increases or decreases in the amount, and suggested that all interested parties be notified directly regarding fee changes.

Response. Publication in the Federal Register is a legally acceptable method to notify the public of rule changes. Notifying individual parties is not FEMA's role, and cannot be provided within the constraints of FEMA's budget and staff. We expect that organizations and trade associations that serve the banking industry will provide such notification to their constituents.

Payment Method. The proposed rule included an option of payment by credit card. On further investigation this option will not be available because of the expense that would be incurred by FEMA to process credit card payments. Payment for requests for review must be made by check or by money order, in U.S. funds, payable to the National Flood Insurance Program.

Insurance Purchase Requirements

Forced placement. Five responders questioned how the request for review of lender determinations impacts the 45-day clock for forced placement of flood insurance. One responder asked whether a lender could force place insurance during the 90-day window (45 days to submit, 45 days to review) without liability or penalty, and whether new extensions of credit should be postponed pending FEMA's Response.

Response. Section 524 of the NFIRA states that if the request is made in connection with the origination of a loan and if FEMA fails to respond before the later of the expiration of the 45-day period after receiving the request or closing of the loan, then flood insurance is not required until such a letter is provided. Thus, section 524 only temporarily delays the flood insurance purchase requirement. If the closing of the loan occurs *prior to* 45 days after FEMA receives a request, then the flood insurance purchase requirement is not waived under section 524 because FEMA has not failed to respond within the 45-day period. If loan closing occurs *after* FEMA's 45-day response period, then the mandatory flood insurance purchase requirement is waived only if FEMA's response is not issued by loan closing. We plan to respond to requests within 45 days.

However, if we do not respond within 45 days and the mandatory purchase requirement is delayed until we do respond, it is nevertheless a prudent business practice to require the

purchase of flood insurance to protect the collateral. The lender always retains the prerogative to require flood insurance even when its purchase is not Federally mandated. Flood insurance premiums can be refunded if it is determined by FEMA that the structure is not located in the SFHA and the lender waives the flood insurance purchase requirement.

Mandatory purchase. We received comments noting that the proposed rule did not address when borrowers are or are not required to purchase flood insurance. Another commenter asked whether the lender could waive the flood insurance purchase requirement while the determination is under review. Others noted that FEMA's review of lender determinations should not delay flood insurance purchase requirements.

Response. As stated above, section 524 temporarily delays the flood insurance purchase requirement only when FEMA fails to respond within its allotted 45-day period. At all other times, the mandatory purchase of flood insurance for structures located in SFHAs remains in effect.

Requirement for Joint Request

Individual requests. Seven responders indicated that individual requests for determination reviews should be accepted, and that joint requests would be too time consuming.

Response. The NFIRA states that the borrower and lender of a loan secured by improved real estate or a manufactured home *may jointly* request the Director to review a determination whether the building or manufactured home is located in an area having special flood hazards. FEMA interprets the statute to require a joint request from both the borrower and the lender for this review. If an individual submits a request for a determination review, FEMA will make a reasonable attempt to obtain the needed signature. However, if it is not possible to obtain both parties' signatures for the request, FEMA will not review the request under 44 CFR 65.17, and will return the request promptly in its entirety. FEMA will notify the requestor that the data submitted with the request do not meet the requirements of 44 CFR 65.17; therefore, the lender's obligation to require the purchase of flood insurance remains in effect. Further, we shall notify the requestor that other procedures are available to individuals under 44 CFR parts 70 and 65, commonly known as the Letter of Map Amendment (LOMA) and the Letter of Map Revision (LOMR) processes, if the requestor believes that a structure has

been incorrectly included in the SFHA, or if conditions have changed since the NFIP map was issued.

Signatures. One responder asked whether all borrowers had to sign the request.

Response. The request for a determination review must be signed by at least one of the borrowers, or the borrowers' legal representative for the loan. Likewise, the lender must also sign the request. To ensure the involvement of all appropriate parties as intended by the legislation, and to ensure an objective process, FEMA will not accept the signature of a third party determinator as a representative for the borrower or the lender.

Responsibility. Several requestors also asked who is responsible for the preparation of the joint submittal and whether others may join in on requests or submit on behalf of the borrower and lender.

Response. The responsibility for the preparation of the request for review of a determination is held jointly, by both the borrower and the lender. The data package may be prepared by others, but the request itself must be an original (not photocopied), and signed by the borrower and lender, as discussed above.

Time Frames

Submittal. We received many comments on the requirement to submit the request for a determination review within 45 days of the lender's notification to the borrower that flood insurance is required. Two commenters questioned FEMA's authority for limiting the time frame and five commented that the time allotted was too short or should be eliminated. Other comments indicated that the combined submission and processing time was too long or that the lender and borrower should be allowed to submit at any time, and that FEMA should expedite its review.

Response. We limited the time frame for submittal to permit us to provide reviews in a timely manner. The 45-day period is also within the time period in which loans are generally closed. This time frame avoids a protracted period of time before a final determination is made whether the property is or is not located in a SFHA. Processing times may be minimized if a request for review is submitted immediately after the lender notifies the borrower that flood insurance is required, and if a complete data package is submitted to FEMA.

Available options. One responder asked what options are available if the 45-day window for the submittal of a

request for determination review is missed.

Response. In this case, flood insurance should be purchased if required. The procedures for a LOMA or LOMR are available to individuals if a structure has been inadvertently included in the SFHA or if conditions have changed since the NFIP map was issued.

Resubmittals. Two commenters asked about the charge for resubmissions. Two others asked what effect a request returned for insufficient data would have on the 45-day clock.

Response. Requests returned because the 45-day deadline was missed cannot be resubmitted. Requests returned for insufficiency of information will have the fee returned with the package. FEMA will return the entire package to the borrower with the fee and a letter explaining what information is needed for the review to be accomplished. The borrower will have 14 days from date of FEMA's letter or 45 days from the date of lender notification, whichever is later, to send the request back to FEMA. A fee must be provided with any resubmission; there is no second charge. The date of postmark from the sender will determine the timeliness of the resubmission.

Start of 45 days for FEMA review and response. Two responders asked when the 45-day FEMA review clock would begin and what effect, if any, an uncollected fee would have on the clock.

Response. The 45-day timeframe for FEMA to complete the review will begin on the day that FEMA receives a complete request supported by technical information at the proper location (addresses given above). Uncollected fees may be turned over to the Treasury Department for handling and such action will not have an impact on the processing of the review.

Definitions. One responder asked for clarification of the word "submitted" as in "submitted within 45 days of the lender's notification".

Response. Submitted means postmarked. This is defined in 44 CFR 65.17 (b) (3).

Timing of LOMAs and Determination Reviews. One responder asked how the 45-day time limit is impacted if a LOMA or LOMR is requested before the request for a determination review.

Response. The determination review procedures provide a mechanism for FEMA to review a lender's or its agent's determination of whether a structure is within a mapped SFHA. LOMA and LOMR procedures allow the submittal of more detailed, site-specific information than was available when

the maps were initially prepared. After reviewing this information, and if warranted, FEMA can revise the mapped SFHAs by LOMA or LOMR. If the question is whether the NFIP map was read correctly, the determination review procedure is appropriate. If the question is whether the SFHA should be changed, LOMA or LOMR procedures are appropriate. In most instances, only one procedure is applicable. However, should both procedures be underway simultaneously, most likely they will be addressed separately. While FEMA has 45 days to respond to a request for determination review, FEMA has 60 or 90 days, respectively, to respond to LOMA and LOMR requests because a more detailed review is necessary. Any determination made through the determination review procedure will consider only effective LOMAs or LOMRs, and the submittal and response timeframes for the determination review process will not change as a result of any ongoing LOMA or LOMR reviews.

Providing a Copy of the NFIP Map

Seven responders questioned why a copy of the NFIP map must be submitted with the request when FEMA already has the maps on file.

Response. The purpose of FEMA's review is to judge whether the determination presented by the lender is appropriate. If the location of the structure on the NFIP map used in that determination is not provided with the submitted data, FEMA would have to make an independent determination, which was not the intent of the NFIRA. Further, if a copy of the NFIP map used to make the determination is not provided, it would be unclear whether the current NFIP map panel was used to make the determination. A full copy of the map panel is not required. The title block, including map date, scale bar, and north arrow, and the portion of the map including the property location (with the property location noted) are the only portions of the NFIP map that need to be provided.

FEMA Processing

Effective date. Four responders had concerns about the effective date for the use of the Standard Flood Hazard Determination Form (SFHDF) and the commencement of FEMA's reviews under 44 CFR 65.17, and two responders suggested that any form be admissible before January 1996.

Response. FEMA is currently developing a system to handle requests for determination reviews and will begin accepting requests under § 65.17 on January 2, 1996. The mandatory use

of the SFHDF by lenders also begins on January 2, 1996.

Technical data requirements. Five responders expressed the need for FEMA to define the technical data requirements and provide examples.

Response. FEMA needs the same technical data that were used by the lender or third party determinator to make the determination. Items that typically complete this requirement include, but are not limited to, a copy of the tax assessor's map showing the property, a map showing the location of the structure on the property, a copy of the plat for the subdivision/tract or similar document, and information showing the relationship of the NFIP map and the location of the structure on the property. Structures located in rural areas or areas where the NFIP map contains few physical features may need additional data so that the structure can be definitively located on the property and the property located relative to reference features. Multiple-unit structures would need data for the entire building. Properties with multiple buildings must show data for all structures. If a building has a porch or deck, this should be indicated in detail.

Incomplete submittals. One responder asked what happens to incomplete submissions and three asked when the fee is returned.

Response. Incomplete submissions are returned in their entirety, with the fee, to the borrower. Requests received with a postmark more than 45 days after the date the lender notified the borrower that flood insurance is required will also be returned to the borrower with the fee. The only data retained by FEMA are the database record of the receipt and disposition of the request. There are no circumstances when the fee can be reimbursed to the lender or borrower.

Format for requests. Five responders requested that FEMA provide a form or a format for requesting the reviews.

Response. FEMA will provide guidance on how to request a review, but does not plan to develop an official form to be used when requesting determination reviews. This issue has been discussed with the lending industry trade associations and they are willing to develop a recommended format that can be used.

Publication of Letters of Determination Review. One responder asked whether FEMA will publish public notices of determination reviews similar to LOMAs and LOMRs.

Response. No publication by FEMA is contemplated because the determination review does not change the effective map.

Distribution of correspondence. One responder suggested that copies of the correspondence be provided to the borrower and the lender.

Response. Copies of the Letter of Determination Review will be sent to the lender and the borrower, as well as to the third party determinator, if known. Packages returned for insufficiency will be sent to the borrower with notice of return to the lender.

Review of Accuracy of NFIP Map. One responder asked whether FEMA's review would include verification of the accuracy of the NFIP map.

Response. No. The purpose of the review is to determine whether or not the security property has been accurately located on the effective NFIP map. If the accuracy of the NFIP map is in question, procedures under 44 CFR parts 70 and 65 must be used to request a LOMA or LOMR.

Review for Letters of Map Change. One responder asked whether FEMA would review for LOMAs and LOMRs, how it would perform this task, and what LOMA/LOMR information would be provided back to the borrower and lender.

Response. When reviewing a lender's or its agent's determination, FEMA will check its Community Information System database for LOMAs and LOMRs that would affect the determination. If the original determination overlooked a LOMA or LOMR, FEMA's final response will so state and will provide the date of the letter. LOMAs and LOMRs are available through the community's map repository. In addition, FEMA publishes a compendium of all map changes semi-annually in the Federal Register.

Initiation of LOMA/LOMR process. Two responders promoted the automatic initiation of the LOMA/LOMR process.

Response. There will not be an automatic initiation of the LOMA/LOMR procedures from the 44 CFR 65.17 submission. Elevation data are not considered in the determination review process, but are frequently required for the LOMA/LOMR process. The § 65.17 procedure has been designed for fast response and the review of extra data will not be performed at this time. FEMA's response to a request for determination review that includes elevation data will include information regarding other procedures that are available to consider the elevation data.

Format of FEMA's Response. One responder asked whether FEMA's review would result in a Standard Flood Hazard Determination Form prepared by FEMA.

Response. No. The intent of these procedures is to provide a review of a

lender's or its agent's determination. Section 524 of the NFIRA states that FEMA shall provide to the borrower and the lender a letter stating whether or not the building or manufactured home is in an area having special flood hazards.

Status inquiries. One responder wanted to know how to obtain the status of the request after submission.

Response. Due to the anticipated volume of requests, such inquiries will not be accommodated. We plan to acknowledge receipt of the request within five days and to issue the final response within 45 days.

Elevation data. A responder asked that the final rule explicitly state that FEMA will not consider elevation data for this review. The same responder advocated that the determination review process not result in the initiation of the LOMA/LOMR process.

Response. This is stated in the final rule under 44 CFR 65.17(a).

Miscellaneous Comments

Definition of "in SFHA" and "partially in SFHA". One responder asked that "in the SFHA" be defined and another responder asked how we would deal with reviews of "part in, part out".

Response. The SFHA is delineated on the NFIP map for the community. For purposes of this procedure, if any part of the structure is indicated to be in the SFHA on the NFIP map, the structure is considered to be in the SFHA and flood insurance is required. The flood insurance purchase requirement applies to *insurable structures*. If a portion of the land lies in the SFHA, the purchase of flood insurance is not Federally mandated unless the structure itself is indicated to be in or partially in the SFHA.

Determinations "Pursuant to a Revision." Several responders asked us to clarify whether these determination review procedures were available in the case of a FEMA remapping.

Response. These procedures are available for the review of lender determinations when requested within 45 days after the borrower was notified that flood insurance is required, regardless of the impetus of the request. However, the intent of the determination review procedures is to allow a mechanism for FEMA to review a lender's or its agent's determination when specifically requested. FEMA will return requests at the outset if the submitted Standard Flood Hazard Determination Form is based on an outdated map panel. After the lender conducts or obtains a determination using the current map panel in effect, FEMA will review the determination

upon request if the request meets the stipulated criteria.

Applicability of Process. One responder asked if the procedure would apply to existing loans as well as loan originations.

Response. The process is available within 45 days after the lender advises the borrower that flood insurance is required as a condition for the loan. Therefore, this procedure applies to all loans.

Guarantee. One responder asked whether FEMA would guarantee its determination.

Response. No. A guarantee is only required if a third party completes the Standard Flood Hazard Determination Form for a lender. FEMA is not authorized to guarantee these determinations. However, FEMA will review the available data and ensure that the determinations are as accurate as possible.

Initial Determinations. One responder suggested that FEMA should provide initial flood hazard determinations.

Response. Although the NFIRA does not prohibit FEMA from providing initial flood hazard determinations, we interpret section 524 as providing a mechanism for FEMA to review and resolve appeals on others' determinations. As indicated in the NFIRA, FEMA's determination shall be final. As stated earlier, FEMA's review of a determination is based on the data provided by others that allowed the original determination to be made. FEMA's review of the determination will correct an error, if one was made in locating a structure relative to a mapped SFHA, but does not change the map, the location of the property on the map, or the findings of a third party determinator or lender if they correctly used the available data. Other procedures with additional data requirements are available through FEMA's LOMA and LOMR processes.

Upholding original determinations due to insufficient information. One responder asked for clarification on why the original determination would be "upheld" instead of "withheld" if insufficient information was submitted to review the determination.

Response. FEMA will presume the lender or lender's agent has made the correct determination and predicts that most determinations will not be submitted to FEMA for review. Therefore, the lender's determination is considered valid until found to be in error. We have revised the language in 44 CFR 65.17(c)(2) to clarify this issue.

Unusual cases. A responder asked for clarification of the term "unusual cases."

Response. This may have been a poor choice of words in the proposed rule. If the lender or third party determinator uses prudent and reasonable judgment in their evaluations, disputes should not arise that would require a determination review by FEMA.

Use of term "mobile home." One responder stated that 44 CFR 65.17 should use the term "manufactured home" instead of "mobile home" to be consistent with the NFIP regulations.

Response. Section 65.17 has been changed to use the term "manufactured home."

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 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 final 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 rule adheres to the principles of regulation as 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.

Paperwork Reduction Act

This final rule does not involve any collection of information for the purposes of the Paperwork Reduction Act.

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.

List of Subjects in 44 CFR Part 65

Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is 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 65.17 is added to read as follows:

§ 65.17 Review of determinations.

This section describes the procedures that shall be followed and the types of information required by FEMA to review a determination of whether a building or manufactured home is located within an identified Special Flood Hazard Area (SFHA).

(a) *General conditions.* The borrower and lender of a loan secured by improved real estate or a manufactured home may jointly request that FEMA review a determination that the building or manufactured home is located in an identified SFHA. Such a request must be submitted within 45 days of the lender's notification to the borrower that the building or manufactured home is in the SFHA and that flood insurance is required. Such a request must be submitted jointly by the lender and the borrower and shall include the required fee and technical information related to the building or manufactured home. Elevation data will not be considered under the procedures described in this section.

(b) *Data and other requirements.* Items required for FEMA's review of a determination shall include the following:

(1) Payment of the required fee by check or money order, in U.S. funds, payable to the National Flood Insurance Program;

(2) A request for FEMA's review of the determination, signed by both the borrower and the lender;

(3) A copy of the lender's notification to the borrower that the building or manufactured home is in an SFHA and that flood insurance is required (the request for review of the determination

must be postmarked within 45 days of borrower notification);

(4) A completed Standard Flood Hazard Determination Form for the building or manufactured home, together with a legible hard copy of all technical data used in making the determination; and

(5) A copy of the effective NFIP map (Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM)) panel for the community in which the building or manufactured home is located, with the building or manufactured home location indicated. Portions of the map panel may be submitted but shall include the area of the building or manufactured home in question together with the map panel title block, including effective date, bar scale, and north arrow.

(c) *Review and response by FEMA.* Within 45 days after receipt of a request to review a determination, FEMA will notify the applicants in writing of one of the following:

(1) Request submitted more than 45 days after borrower notification; no review will be performed and all materials are being returned;

(2) Insufficient information was received to review the determination; therefore, the determination stands until a complete submittal is received; or

(3) The results of FEMA's review of the determination, which shall include the following:

(i) The name of the NFIP community in which the building or manufactured home is located;

(ii) The property address or other identification of the building or manufactured home to which the determination applies;

(iii) The NFIP map panel number and effective date upon which the determination is based;

(iv) A statement indicating whether the building or manufactured home is within the Special Flood Hazard Area;

(v) The time frame during which the determination is effective.

Dated: November 22, 1995.

Robert H. Volland,

Acting Deputy Associate Director for Mitigation.

[FR Doc. 95-29561 Filed 12-4-95; 8:45 am]

BILLING CODE 6718-04-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to Permit FM Channel and Class Modifications [Updates] by Applications*, 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: December 5, 1995.

FOR FURTHER INFORMATION CONTACT:

Kathleen Scheuerle, Mass Media Bureau, (202) 414-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, adopted November 8, 1995, and released November 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 232C3 and adding Channel 232C2 at Rogers.

3. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended