

Flood Zone Determinations: Information for Lenders

Attached is an example letter that states the case of flood zone determination and mandatory purchase of flood insurance accurately. It is also recommended that you acquire FEMA 186, "Mandatory Purchase of Flood Insurance Guidelines". It's the official publication that provides detailed guidance on the subject of flood insurance. Also used is the Standard Flood Hazard Determination Form which could be and should be made available to your customers affected by your flood zone determinations routinely.

FYI...

Letters of Map Correction (i.e. LOMA's, LOMR's) are to be used only when the need for a map correction has been identified; not for flood zone determinations. Locating structures and related flood hazards and determining whether or not flood insurance is required are the sole responsibilities of the Lending Institution.

Additionally, if your customer disagrees with your conclusions, then an appeal may be filed with the Federal Emergency Management Agency (FEMA). Information regarding such is attached. The appeal will be resolved by issuance of a Letter of Determination Review (LODR). If the appeal cannot be resolved by FEMA, then the information and fee will be returned to the LODR applicant. The inability of FEMA to resolve the appeal due to lack of sufficient information is indicative of the need for a lender or its contractor to acquire additional determining data.

Under no circumstances is elevation to be used by a Lender or its contractor to make flood zone determinations. Only lateral interpretation of a flood map is utilized to administer the mandatory purchase requirements. Elevation is used to correct maps that are found to be incorrect. If a lender chooses to require a property owner to hire a surveyor, for lateral interpretation of flood maps, then it is a lender requirement and not a FEMA requirement. FEMA will require the submission of surveyed elevations (vertical) in order to correct a map.

Follows is info taken from the website re: the Letter of Determination Review process. This process should be used in the event all other options are exhausted and the property owner still disagrees with your determination. Other options would include reference to the determining company (lender contractor), re-review of available documents, etc.

How To Request a Flood Hazard Determination Review from FEMA

In accordance with Section 524 of the National Flood Insurance Reform Act of 1994, borrowers who have reason to dispute the flood hazard determination presented by a lender may request jointly with the lender that Federal Emergency Management Agency (FEMA) review that determination. FEMA has 45 days to respond to a submitted request. FEMA will make its determination within 45 days of receipt of all necessary data. If the request for review is related to a loan origination and the loan closing occurs prior to the end of the 45-day allotted response time, the purchase of flood insurance is required. If it is determined through the FEMA determination review process that the structure or manufactured home is not located in a Special Flood Hazard Area (SFHA), and if the lender waives the flood insurance purchase requirement, a full premium refund can be obtained if no claim on the policy has been made. This process does not consider the elevation of the structure or manufactured home above the flood level.

Rather, it considers only the location of the structure or manufactured home relative to the SFHA shown on the effective National Flood Insurance Program (NFIP) map.

What must be submitted to FEMA?

The following must be submitted to FEMA:

- * A copy of the completed Standard Flood Hazard Determination form (FEMA Form 81-93);
- * A copy of the dated notification to the borrower from the lender that the property is on SFHA;
- * A copy of the effective NFIP map panel for the community in which the structure or manufactured home is located, annotated to show the location of the structure or manufactured home;
- * A copy of all material used by the lender or any third party employed by the lender to make the flood hazard determination (FEMA must confirm the location of the structure on the NFIP map by examining the data source used to make the determination);
- * A letter to FEMA requesting a review of the lender's determination, signed by the borrower and the lender;
- * \$80 payment by check or money order, in U.S. funds, made payable to "National Flood Insurance Program."

When must the request be submitted?

Requests **MUST** be postmarked not later than 45 days following the date the lender notified the borrower that the property is in an SFHA. Data and fee received bearing a postmark later than 45 days following lender notification will be returned to the sender without review by FEMA. Where must the request be submitted?

For a property located in Mississippi, the request must be submitted to:

FEMA Determination Review Coordinator
c/o Dewberry, LLC
P.O. Box 2020
Merrifield, VA 22116-2020

What is FEMA's response to such requests?

Within 45 days of receipt, FEMA will advise the lender and borrower of one of the following by letter:

- * Request was postmarked more than 45 days following notification; all materials and fees are returned.
- * Insufficient information and/or fee was received; all materials and fees are returned.
- * Incorrect map date was used to locate the property/structure; all materials and fees are returned.
- * Sufficient information was received; structure is either inside or outside the designated SFHA.

* Insufficient information was received to change the determination; all materials are returned.
What is the effect of FEMA's response to such requests?

FEMA's review of the lender's determination and subsequent response does not result in an amendment or revision to the effective NFIP map. It is only a finding as to the location of a building or manufactured home relative to a designated SFHA, which has implications regarding the Federal requirement for purchase of flood insurance. The determination by FEMA will remain in effect until the effective NFIP map affecting the building or manufactured home is physically revised and republished.

Additional information about FEMA and the NFIP may be obtained through FEMA's Flood Hazard Mapping site on the Internet at

<http://www.fema.gov/mit/tsd> <<http://www.fema.gov/mit/tsd>> or
www.fema.gov/nfip <<http://www.fema.gov/nfip>>

EXAMPLE LETTER TO BORROWER:

Dear Customer:

The Flood Disaster Protection Act of 1973 (and subsequent amendments), requires that all mortgaged *buildings* located within a federally designated Special Flood Hazard Area (SFHA), and in which federally insured banks hold a mortgage interest, be covered by a current flood insurance policy. This insurance provides coverage in the event of damage or destruction to the *building* due to flooding and is not commonly offered through a standard homeowner's insurance policy.

A recent audit of your loan was completed and it has been determined that your building is located in a Special Flood Hazard Area (SFHA), as shown on the <Community Name> Flood Insurance Rate Map (FIRM) panel number <Panel Number> dated <Date>. Flood insurance is therefore required.

If you believe that your buildings and other insurable improvements on the property are not located in a SFHA, you may provide us with a copy of a survey, site plan, *or other acceptable document* showing the improvements on the property. We will then further determine if any part of the insurable improvements, as shown on the document(s), are in the SFHA. *If they are not, <Bank Name> will waive the flood insurance requirement.*

If the insurable improvements are located in a SFHA and the elevation of the property upon which the structures or improvements are located is **above** the 100 year flood elevation shown on the FIRM, you may choose to apply to the Federal Emergency Management Agency (FEMA) for a Letter of Map Amendment (LOMA) that will correct the map and officially acknowledge that the structures (or property) are not located within the limits of the SFHA. The application forms for a LOMA can be obtained at WWW.FEMA.GOV, or the local floodplain administrator in your community. Additional information from FEMA is being enclosed for you reference. Under these conditions, we can only accept a LOMA as proof that your structure(s) (or property) is **above** the 100 year flood elevation.

Please submit a survey, site plan, *other acceptable document, or a copy of your effective flood insurance policy* within <X> days of the date of this letter. If we do not receive the requested documentation, you will receive additional letters advising you of an impending force placement of flood insurance coverage.

Attached is a copy of the “Standard Flood Hazard Determination Form” produced for <Bank Name> by <Company Name>. Feel free to contact <Company Name> directly to discuss the determination process and any appeal(s) that may be available. Also enclosed is an information sheet that may assist you in requesting a Letter of Determination Review from FEMA (also available on the above website).

<Bank Name> maintains a Home Page on at <WWW> that may be of interest to you. It can be accessed at WWW.<Address>.COM. We invite you to visit this site.

If you have questions, please contact <Name> of our <Department> at <Phone Number>.