



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

**October 1, 2009**

**MORTGAGEE LETTER 2009-37**

**TO: ALL APPROVED MORTGAGEES  
ALL APPROVED MORTGAGE SERVICERS  
ALL FHA ROSTER APPRAISERS**

**SUBJECT:** Flood Zone Requirements and Responsibilities of FHA Mortgagees and Appraisers

This Mortgagee Letter serves to remind mortgagees and FHA Roster appraisers of their responsibility to determine if a property is located within a Special Flood Hazard Area (SFHA) as designated by the Federal Emergency Management Agency (FEMA) as well as reiterate the Federal Housing Administration's (FHA) eligibility requirements for properties located in such zones.

The final responsibility for determining if a property is located in a SFHA rests with the originating lender. Mortgagees are strongly encouraged to obtain a flood zone certification, independent of any assessment made by the appraiser, on all properties securing FHA-insured mortgages in order to avoid culpability for any regulatory violations or civil claims for damages that may arise from improper determinations. Mortgagees may seek assistance from qualified third parties that have demonstrated their knowledge concerning flood map determination, but the National Flood Insurance Act requires that a lender or other person providing information on the FEMA form for determining whether a property is located in a SFHA may provide for the acquisition or determination of this information by a third party only to the extent that the third party guarantees the accuracy of the information [National Flood Insurance Act of 1968, § 1365(d)].

Mortgagees must inform borrowers of the requirement to obtain adequate flood insurance for properties where any portion of the dwelling and related structures and equipment are located in a SFHA as a condition of closing and require the escrow of flood insurance premiums if escrow is required for other items such as hazard insurance and taxes. If the property is located in a SFHA and insurance under the National Flood Insurance Program (NFIP) is not available in the community, the property is not eligible for FHA mortgage insurance. According to Section 102(a) of the Flood Disaster Protection Act of 1973 [42 U.S.C. 4012a(a)], Flood insurance must be obtained and maintained in an amount at least equal to the least of:

- 1) The outstanding principal balance of the loan(s); or
- 2) The maximum amount of the NFIP insurance available with respect to the property improvements; or
- 3) The development cost of the property, less estimated land cost.

FHA Roster Appraisers are required to review the applicable FEMA Flood Insurance Rate Map (FIRM) and make appropriate notations on the applicable appraisal reporting form. If the property is located within a SFHA, the appraiser must attach a copy of the flood map panel to the appraisal report. The appraiser must enter the FEMA zone designation on the reporting form as well as identify the map panel number and map date. If the property is not shown on any map the appraiser should enter “not mapped”. It is noted that FEMA is digitizing its maps to provide more detail and actual pictures of existing buildings not seen on older maps which may benefit lenders and appraisers.

The eligibility requirements as per new and existing construction and per housing type are as follows:

**New and Proposed Construction:** If any part of the property improvements (the dwelling and related structures/equipment essential to the property value and subject to flood damage) is located within a SFHA, the property is **ineligible** for FHA mortgage insurance unless:

- 1) A final Letter of Map Amendment (LOMA) or final Letter of Map Revision (LOMR) that removed the property from the SFHA location is obtained from FEMA; or
- 2) If the property is not removed from the SFHA by a LOMA or LOMR, the lender must obtain a FEMA National Flood Insurance Program Elevation Certificate (FEMA form 81-31 “elevation certificate”) prepared by a licensed engineer or surveyor documenting that the lowest floor (including the basement) of the residential building and all related improvements/equipment essential to the value of the property is built at or above the 100 year flood elevation in compliance with the National Flood Insurance program criteria as required in 44 CFR 60.3 through 60.6.
  - Insurance under the NFIP is not required if a LOMA or LOMR is obtained from FEMA removing the property from the SFHA.
  - A flood elevation certificate is not required when a LOMA or LOMR removes the property from a SFHA.
  - Insurance under the NFIP is required when a flood elevation certificate documents that the property remains located within a SFHA.
  - The LOMA, LOMR or flood elevation certificate must be submitted with the case for endorsement.

**Existing Construction:** Insurance under the NFIP must be obtained as a condition of closing and maintained for the life of the loan for an existing property when any portion of the residential improvements is determined to be located in a SFHA. If the improvements are subsequently removed from a SFHA by a LOMA or LOMR, flood insurance will no longer be required.

**Manufactured homes:** 24 CFR 203.43f (c) (i) and (d) (ii) require that the finished grade level beneath the manufactured home shall be at or above the 100-year return frequency flood elevation. If any portion of the property improvements (the dwelling and related structures/equipment essential to the property value and subject to flood damage) for both

new and existing manufactured homes are located within a SFHA, the property is not eligible for FHA mortgage insurance without: (1) a FEMA issued LOMA or LOMR (in these cases, neither an elevation certificate nor flood insurance is required) or (2) an elevation certificate prepared by a licensed engineer or surveyor stating that the finished grade beneath the manufactured home is at or above the 100 year return frequency flood elevation. When utilizing an elevation certificate, the property remains in a SFHA and flood insurance is required.

**Condominiums:** The Homeowners Association (HOA), not the borrower or individual unit owner, is responsible for obtaining and maintaining adequate flood insurance under the NFIP on buildings located in a SFHA. The flood insurance coverage must protect the interest of borrowers who hold title to an individual unit as well as the common areas of the condominium project. If the FHA Roster Appraiser reports that buildings in a condominium project are located in a SFHA the lender is responsible for ensuring that the HOA obtains and maintains adequate flood insurance on buildings located within the SFHA.

### **Documentation Requirements**

Mortgagees and servicers are reminded of the requirement for borrowers to maintain adequate flood insurance during the life of the mortgage or that insurance be obtained if the lender or servicer becomes aware that the building involved subsequently becomes part of an SFHA due to a FIRM map revision. Mortgagees are also strongly encouraged to purchase life-of-loan flood zone determination services as an added precaution. Mortgagees are required to force place flood insurance if the borrower allows the policy to lapse or if the coverage is found to be inadequate.

Additional information regarding FEMA guidelines can be found online at: [http://www.fema.gov/good\\_guidance/download/10040](http://www.fema.gov/good_guidance/download/10040)

### **Information Collection Requirements**

Paperwork reduction information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Number 2502-0059. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB Control Number.

If you have questions concerning this Mortgagee Letter, please call 1-800-CALLFHA (1-800-225-5342). Persons with hearing or speech impairments may reach this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Sincerely,

David H. Stevens  
Assistant Secretary for Housing-  
Federal Housing Commissioner