

9110-17

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2010-XXXX]

Privacy Act of 1974; Department of Homeland Security Federal Emergency Management Agency – 002 National Flood Insurance Program Letter of Map Change System of Records (*previously titled* 1 National Flood Insurance Program Letter of Map Amendments System of Records)

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 the Department of Homeland Security proposes to update and reissue a system of records titled, Department of Homeland Security Federal Emergency Management Agency – 1 National Flood Insurance Program Letter of Map Amendment System of Records, February 15, 2006.

This system of records will contain personally identifiable information voluntarily provided by applicants for National Flood Insurance Program MT-1 Letters of Map Change (LOMCs), which include Letters of Map Amendment, Conditional Letters of Map Amendment, Letters of Map Revision based on Fill and Conditional Letters of Map Revision based on Fill, and MT-2 LOMCs, which include Letters of Map Revision and Conditional Letters of Map Revision. LOMCs, when granted by FEMA, amend or revise effective Flood Insurance Rate Maps to exclude properties or areas of land from Special Flood Hazard Areas (SFHAs) or to modify the geographic boundaries of SFHAs. As a result of the biennial review of this system, the Department of Homeland Security is

proposing changes to a.) the system name to reflect the National Flood Insurance Program and numbering change from 1 to 002; b.) the categories of records to reflect the addition of Federal Emergency Management Agency form MT-1; c.) the routine uses to better align with the system; and d.) storage, safeguards, and notification procedures.

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This new system will be effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number DHS-2010-
<XXXX> by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 703-483-2999.
- Mail: Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.
- Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Thomas R. McQuillan (202-646-3323), Privacy Officer, Federal Emergency Management Agency, Department of Homeland Security, Washington, D.C. 20472. For

privacy issues please contact: Mary Ellen Callahan (703-235-0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, D.C. 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. § 552a, the Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) is updating and reissuing a system of records titled, DHS/FEMA – 1 NFIP LOMA System of Records (71 FR 7990, February 15, 2006). Updating and reissuing the subject system of records notice is necessary to 1) reflect updates and changes for FEMA Forms MT-1, MT-2, and MT-EZ; 2) ensure consistency with the Mapping Information Platform (MIP) Privacy Impact Assessment (January 27, 2006) that is being updated and changed to ensure its consistency with this system of records notice; and 3) to include proper reference to MT-2 Letters of Map Change (LOMCs), which include Letters of Map Revision and Conditional Letters of Map Revision. Specific updates are described below:

The Department is changing the name of the system to reflect a numbering change from 1 to 002. The updated system will be titled DHS/FEMA – 002 NFIP Letter of Map Change (LOMC) System of Records. This change is necessary to include proper reference to MT-2 LOMCs, which include Letters of Map Revision and Conditional Letters of Map Revision.

This system of records is being updated and revised to reflect updates to FEMA Form MT-1, MT-2, and MT-EZ. Specifically, this system of record notification includes the addition of the individual's phone number, fax number, and e-mail address, and the

certifier's address and fax number, as provided on the FEMA Form MT-1, MT-2, and MT-EZ.

Also, this system of record is being updated and revised to reflect updates to the Mapping Information Platform (MIP) Privacy Impact Assessment (PIA)(January 27, 2006). The updates and revisions to the existing MIP PIA are necessary to better align the PIA with this revised system of record notification.

The National Flood Insurance Act of 1968, Public Law 90-448, as amended by the Flood Disaster Protection Act of 1973, Public Law 93-234, established that the National Flood Insurance Program will provide flood insurance in communities that voluntarily adopt and enforce floodplain management ordinances that meet minimum NFIP requirements. The NFIP assists communities by producing flood maps that indicate, among other things, which properties or areas of land are located in Special Flood Hazard Areas (SFHA). The DHS/FEMA – 002 NFIP LOMC System of Records is used to support FEMA's administration of the NFIP.

Limitations in scale or topographic definition of the source maps used to prepare the Flood Insurance Rate Map (FIRM) may cause small areas that are at or above the one-percent annual chance flood elevation to be inadvertently shown within the SFHA boundaries. Additionally, man-made changes to and around areas subject to flooding may change the one-percent annual chance flood elevation depicted on a FIRM, thereby changing the SFHA. In SFHAs, flood insurance is required on properties with federally-backed loans. A property outside of a SFHA is not required by FEMA to carry flood insurance, and often lenders do not require property owners who are financing or refinancing properties located outside of SFHAs to buy flood insurance policies. For this

reason, individuals seek NFIP MT-1 and/or MT-2 LOMCs to request that FEMA reverse the determination made which allocates that their property is located in an SFHA.

DHS/FEMA offers administrative procedures to review SFHA designations with appropriate engineering and topological documentation, to exclude properties from inadvertent inclusion in a SFHA. FEMA accomplishes this through a NFIP MT-1 LOMC, in which FEMA officially states its position on whether the property is located outside of a SFHA. FEMA's regulations for issuing NFIP MT-1 LOMCs can be found in 44 CFR Parts 70 and 65.5.

DHS/FEMA also offers administrative procedures to review man-made changes to SFHA designations with appropriate engineering and topological documentation, to re-delineate the geographical extend or one-percent annual chance elevation of the SFHA.. FEMA accomplishes this through a NFIP MT-2 LOMC, in which FEMA officially revises a portion of a Flood Insurance Rate Map to modify the geographic boundary and/or one-percent annual change flood elevations of a SFHA. FEMA's regulations for issuing NFIP MT-2 LOMCs can be found in 44 CFR Part 65.

The DHS/FEMA – 002 NFIP LOMC System of Records contains personally identifiable information voluntarily provided by individuals or certifiers applying for NFIP MT-1 and/or MT-2 LOMCs.

An individual is any person financing or refinancing structures or parcels of land (hereinafter referred to as “property” or “properties”) with a federally-backed loan. Examples of individuals are homeowners, investors, and property developers.

A certifier is a Registered Professional Engineer or Licensed Land Surveyor who provides technical information, such as elevation, to FEMA. A certifier may also be a

community official with authority over a communities' flood plain management activities, who provides their concurrence for the issuance of a LOMC. Certifiers have the professional credentials to analyze engineering information. The certifier may provide information either electronically or in hard copy on behalf of the individual.

The information collected includes the individual's name, mailing address, signature, and signature date. The individual can voluntarily provide daytime telephone number, e-mail address, and fax number (which are not required) but enables FEMA to contact the individual should questions arise. In addition, the certifier is required to provide name, professional license number and expiration date (if applicable), company or community name (where applicable), property address or legal description, e-mail address, and business telephone number. The certifier can voluntarily provide a fax number that enables FEMA to fax documents related to the NFIP LOMC.

The information will be collected in hard copy format and maintained at FEMA's repository located at 847 South Pickett Street, Alexandria, VA 22034, or electronically through the Mapping Information Platform (MIP). The collected information will be maintained either as paper records or computerized files retrieved by an individual's property address or legal description and/or case number.

This updated system will be included in the Department of Homeland Security's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates personally identifiable information. The Privacy Act applies to

information that is maintained in a “system of records.” A “system of records” is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Below is the description of the DHS/FEMA – 002 NFIP LOMC System of Records.

In accordance with 5 U.S.C. § 552a(r), DHS has provided a report of this new system of records to the Office of Management and Budget and to Congress.

System of Records

DHS/FEMA – 002

System Name:

DHS/FEMA – 002 National Flood Insurance Program Letter of Map Change System of Records.

Security Classification:

Unclassified.

System Location:

Electronic records are maintained at the Federal Emergency Management Agency Electronic Solutions Delivery Center (SDC), 3039 Cornwallis Road, Building 301, Dock 85/86, Research Triangle Park, NC 27709. Paper records are maintained at the Federal Emergency Management Agency Engineering Project Library, 847 South Pickett Street, Alexandria, VA 22034.

Categories of individuals covered by the system:

Individuals and/or Certifiers who are seeking a National Flood Insurance Program MT-1 and/or MT-2 Letter of Map Change (LOMC).

Categories of records in the system:

National Flood Insurance Program Letter of Map Change paper applications are filed on the FEMA Forms MT-1, MT-2, or MT-EZ. Electronic applications are filed on the eLOMA.

Categories of records in the system include:

- Individual's provided name;
- Individual's provided mailing address;
- Individual's provided e-mail address;
- Individual's provided daytime phone number;
- Individual's provided fax number;
- Individual's provided property address;
- Individual's provided legal property description;
- Individual's signature;
- Individual's signature date;
- Certifier's (registered professional engineer or licensed land surveyor or authorized community official) name;
- Certifier's professional license number (if applicable);
- Certifier's professional license expiration date (if applicable);
- Certifier's company or community name (where appropriate);
- Certifier's address;

- Certifier's telephone number;
- Certifier's fax number;
- FEMA's Determination (i.e., LOMC outcome);
- Resultant base flood elevation;
- Resultant flood zone;
- Name of flooding source affecting the property/structure;
- Map panel on which the property/structure is located; and
- Community name and identification number in which the property/structure is located.

Authority for maintenance of the system:

The National Flood Insurance Act of 1968, Public Law 90-448, as amended by the Flood Disaster Protection Act of 1973, Public Law 93-234.

Purpose(s):

This purpose of this system is to determine an applicant's eligibility for National Flood Insurance Program Letter of Map Change. An applicant can be a private individual or a certified professional (i.e Registered Professional Engineer, Licensed Land Surveyor, or authorized community official).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. § 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. § 552a(b)(3) as follows:

A. To the Department of Justice (including United States Attorney Offices) or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. any employee of DHS in his/her official capacity;

3. any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. §§ 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;
2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual that rely upon the compromised information; and
3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS' efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS' officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Disclosure to consumer reporting agencies:

None.

Policies and Practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

Storage:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD-ROM.

Retrievability:

Records are retrieved by the individual's property address or, if there is no address, by the legal description of the property. Records are also retrieved by the individual's uniquely identifying case number.

Safeguards:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information

that is stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

Retention and Disposal:

Records in the system are retained for 20 years after creation of the record in accordance with records schedule N1-311-86-1 2A2c.

System Manager(s) and Address:

Program Manager (877-336-2627), National Flood Insurance Program Letter of Map Change Program, Federal Emergency Management Agency, 500 C. Street SW, Washington, D.C. 20472-3100.

Notification Procedure:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Federal Emergency Management Agency FOIA Officer, whose contact information can be found at <http://www.dhs.gov/foia> under "contacts."

In addition you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and

- If your request is seeking records pertaining to another living individual, you should include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

Record Access Procedure:

See “Notification procedure” above.

Contesting Record Procedures:

See “Notification procedure” above.

Record Source Categories:

Records are obtained from individuals and certifiers.

Exemption Claimed for the System:

None.

Dated:

Mary Ellen Callahan,

Chief Privacy Officer,

Department of Homeland Security.