

4410-10-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency (FEMA)

FEMA-2005-0042

RIN 1660-ZA11

Privacy Act of 1974; National Flood Insurance Program (NFIP); Letter of Map Amendment (LOMA) System of Records

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice of Privacy Act system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Department of Homeland Security gives notice that its Federal Emergency Management Agency proposes to establish a System of Records, entitled the Letter of Map Amendment system, DHS/FEMA/NFIP/LOMA-1. This system of records will contain individually identifying information voluntarily provided by applicants for Letters of Map Amendments to exclude properties from special flood hazard area maps when appropriate.

DATES: The proposed System of Records will be effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless comments are received that result in a contrary determination. The public is invited to comment on the proposed System of Records.

ADDRESSES: You may submit comments, identified by FEMA-2005-0042 by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: FEMA-RULES@dhs.gov. Include FEMA-2005-0042 in the subject line of the message.
- Fax: 202-646-4536. (Not a toll-free number).
- Mail: Please address them to the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 406, 500 C Street, SW., Washington, DC 20472; Maureen Cooney, Acting Chief Privacy Officer, 601 S. 12th Street, Arlington, VA 22202.
- Hand Delivery / Courier: Please address them to the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 406, 500 C Street, SW., Washington, DC 20472; Maureen Cooney, Acting Chief Privacy Officer, 601 S. 12th Street, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Rena Y. Kim, Privacy Act Officer, Room 406, 500 C Street, SW., Washington, DC 20472; (telephone) (202) 646-3949; Maureen Cooney, Acting Chief Privacy Officer, Department of Homeland Security, 601 S. 12th Street, Arlington, VA 22202-4202 by telephone (571) 227-3813 or facsimile (571) 227-4171.

SUPPLEMENTARY INFORMATION:

The Privacy Act (5 USC 552a) 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 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 from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Letter of Map Amendment (LOMA) system established by this Notice is such a system of records.

The Privacy Act requires each agency to publish in the Federal Register a description of the type and character of each system of records that the agency maintains, and the routine uses for which such information may be disseminated and the purpose for which the system is maintained.

The Letter of Map Amendment system will be used to support FEMA’s administration of the National Flood Insurance Program (NFIP). 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 the NFIP to provide flood insurance in communities that voluntarily adopt and enforce floodplain management ordinances that meet minimum NFIP requirements. As part of the NFIP, FEMA assists communities by producing flood maps that indicate, among other things, which properties are located in special flood hazard areas (SFHA).

Limitations of 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. In SFHAs, flood insurance is required on properties with federally-backed loans. A property outside of an SFHA is not required by FEMA to carry flood insurance, and often lenders do not require individuals who are financing or refinancing properties located outside of SFHAs to buy flood insurance policies. For this reason, individuals seek LOMAs to request that FEMA reverse the determination that their property is situated in an SFHA.

FEMA offers administrative procedures to review SFHA designations and, with appropriate engineering documentation, to exclude property from inadvertent inclusion in an SFHA. FEMA accomplishes this through a LOMA, in which FEMA officially states its position whether property is located outside of a special flood hazard area. FEMA's regulations for issuing LOMAs can be found in 44 CFR Part 70.

The new LOMA system of records will contain personally identifying information voluntarily provided by applicants (individuals and/or certifiers as described below) applying for LOMAs.

- 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 home owners, investors, and property developers.
- A certifier is a Registered Professional Engineer or Licensed Land Surveyor who provides technical information, such as elevation, to FEMA.

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 which enables FEMA to contact the individual should questions arise. In addition, the certifier is required to provide name, professional license number and expiration date, company name, 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 LOMA.

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 proposed 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.

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 (OMB) and to Congress.

System Name:

Letter of Map Amendment System (LOMA),
DHS/FEMA/NFIP/LOMA-1.

Security Classification:

Unclassified

System Location:

Electronic: Solutions Delivery Center (SDC), 3039 Cornwallis Road, Building 301, Dock 85/86, Research Triangle Park, North Carolina, 27709. Paper: FEMA's Map Modernization Library, 847 South Pickett Street, Alexandria VA 22034.

Categories of individuals covered by the system:

The system covers only applicants (individuals and/or certifiers) who are seeking a letter of map amendment (LOMA).

Categories of records in the system:

There are three ways to apply for a LOMA. They include the paper only MT-1 form, online MT-EZ, and electronic LOMA (eLOMA). The associated categories of records include:

- Individual's name
- Individual's mailing address
- Individual's signature
- Individual's signature date
- Certifier's (registered professional engineer or licensed land surveyor) name
- Certifier's professional license number

- Certifier's professional license expiration date
- Certifier's company name
- Individual's property address
- Individual's legal property description
- Certifier's business telephone number

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:

This system is maintained for the purpose of determining an applicant's eligibility for LOMAs. An applicant can be a private individual or a certified professional.

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 an agency, organization, or individual for the purposes of performing authorized audit or oversight operations.

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 contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal government, when necessary to accomplish an agency function related to this.

D. Where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law – criminal, civil or regulatory – the relevant records may be referred to an appropriate Federal, State, territorial, tribal, local, international, or foreign agency law enforcement authority or other appropriate agency charged with investigating or prosecuting such a violation or enforcing or implementing such law.

E. To the Department of Justice (DOJ) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (a) DHS, or (b) any employee of DHS in his/her official capacity, or (c) any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation.

F. To the National Archives and Records Administration (NARA) or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. Sections 2904 and 2906.

Disclosure to consumer reporting agencies:

Privacy Act information may be reported to consumer reporting agencies pursuant to 5 U.S.C. 552a(b)(12).

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

Storage:

Official records in this system are stored on paper at the FEMA Map Modernization Library, located at 847 South Pickett Street, Alexandria VA 22034. Electronic records will be stored at the FEMA's limited access facility – Service Delivery Center, located at 3039 East Cornwallis Road, Raleigh NC 27709. Computerized records are stored in a database server in a secured file server room. Personally identifying information is appropriately stored in accordance with the DHS Information Technology Security Program Handbook.

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:

Safeguards include restricting access to authorized personnel who have a need to know, using locks, and password protection identification features. File areas are locked after normal duty hours, and the facilities are protected by security personnel or technology such as security cameras.

Use of the database and physical records will be carefully monitored by the system administrators and the library administrators at:

- Paper: FEMA Map Modernization Library, 847 South Pickett Street, Alexandria VA 22034
- Electronic: Service Delivery Center, 3039 East Cornwallis Road, Raleigh NC 27709

The system has an audit trail of changes made to the application and the user identification of who made the changes. Electronic records are also safeguarded by software programs that monitor traffic to identify unauthorized attempts to upload or change information or otherwise cause damage. Unauthorized attempts to upload or change information are prohibited and may be punishable under the Computer Fraud and Abuse Act of 1986 and the National Information Infrastructure Protection Act.

Retention and Disposal:

The retention schedule has been approved by NARA. The NARA authority is N1-311-86-1 2A2c; the retention period is 20-years. Electronic copies of MT-EZs and eLOMAs will be printed and retained in the same manner as hard copies.

System Manager(s) and Address:

Paper: FEMA Map Modernization Library, 847 South Pickett Street, Alexandria VA 22034. Electronic: Service Delivery Center, 3039 East Cornwallis Road, Raleigh NC 27709.

Notification Procedure:

A request for access to records in this system may be made by writing to the System Manager, identified above, or to the Privacy Act Officer, in conformance with 6 CFR Part 5, Subpart B and 44 CFR Part 6, which provides the rules for requesting access to Privacy Act records.

Record Access Procedure:

The procedures for individuals to gain access to their own information are listed both in FEMA's and the DHS's Privacy Act regulations, 44 CFR Part 6 and 6 CFR Part 5, subpart B. Requests for Privacy Act protected information must be made in writing, and clearly marked as a "Privacy Act Request." The name of the requester, the nature of the record sought, and the required verification of identity must be clearly indicated. Requests should be sent to: Privacy Act Officer, DHS/FEMA, Office of General Counsel, Room 406, 500 C Street, SW., Washington DC 20472.

Contesting Record Procedures:

Same as Record Access Procedure (above). State clearly and concisely the information being contested, the reasons for contesting it, and the proposed change to the record.

Record Source Categories:

The information will come from individuals and certifiers.

Exemption Claimed for the System:

None.

Dated:

Maureen Cooney,

Acting Chief Privacy Officer,

Department of Homeland Security.