

IFR Emergency Justification

This interim rule implements certain provisions of the Burning Bereuter-Blumenauer Flood Insurance Reform Act of 2004 to provide new incentives for States and communities to mitigate the effects of flood damage to severe repetitive loss properties by creating the Severe Repetitive Loss program (SRL), and through reduced cost-sharing requirements in the exiting Flood Mitigation Assistance program (FMA).

In addition this rule ensures that the FMA planning requirements are consistent with other applicable regulations, streamlines the planning requirements for Indian tribal governments. It also describes requirements for the acquisition of property for open space for mitigation funds, including under SRL and FMA.

Prior comment on this rule is not in the public interest where the implementation of the new SRL program, as well as the modified FMA program, will assist States recovering from flood disasters nationwide, including Hurricanes Katrina and Rita, by providing additional grant resources and increasing the Federal cost share for projects mitigating SRL properties. In particular, States and communities are at a critical stage for identifying properties to be mitigated in the post-Katrina recovery efforts, and these funds are essential for targeting the most costly properties in the area. To be most effective, the funds need to be made available to the Gulf Coast States and communities affected by Katrina and Rita as soon as possible. At the end of August 2007, there were just under 8,100 properties identified as meeting the definition of severe repetitive loss properties; approximately 58 percent, or 4,685 properties, lie within the 5 States most affected by Hurricanes Katrina and Rita. Mitigating these SRL properties will provide States the opportunity to reduce future losses to these SRL properties, which represent the largest drain on the NFIF and also will reduce future disaster costs to the local, State, and Federal government.

States, tribes, and communities also have a strong interest in accessing, as soon as possible, information in the rule that outlines how the States can revise their mitigation plans to receive the reduced cost share under the FMA and SRL programs. This cost-share reduction is an important incentive and, in some cases, necessary to allow communities, which otherwise would not be able to meet the match requirement, to mitigate SRL properties. It is essential that the availability of this information not be delayed, particularly where in many cases the revisions to mitigation plans will themselves require time-consuming coordination across multiple agencies.

In accordance with the Administrative Procedure Act, 5 U.S.C. 553 (b), FEMA believes that prior notice and comment would be contrary to the public interest, as it would serve only to delay the benefits of this rule to States, tribes, and communities, and would continue imposing the costs of these at-risk properties on the general public.

FEMA nevertheless recognizes the importance of public input in the regulatory process. To that end, FEMA involved the public in a consultation process prior to the publication

of this interim rule. To initiate the consultation process, FEMA published a Federal Register notice on September 15, 2004, 69 FR 55642. The comment period was supposed to close on November 30, 2004, but FEMA extended the deadline for comments until December 7, 2004, and received 26 written comments from States, communities, and associations. Also, as part of the consultation, FEMA invited representative officials of State and local governments, organizations representing emergency management, floodplain management, and insurance professions, to provide oral presentations on the requirements and issues raised in the Federal Register notice. Comments received were given careful consideration in the preparation of this interim rule.

Finally, FEMA actively encourages and solicits comments on this interim rule from interested parties. These comments will be given careful consideration, and could result in changes to these regulations.

DHS/FEMA is seeking emergency approval for the Information Collection Requests associated with this IFR; 1660-0025, 1660-0062, new information collection Severe Repetitive Loss and new information collection Property Acquisition and Relocation for Open Space, to ensure continued collection efforts without disruption to the state, local and tribal governments. The continued use of the collection with the revised guidelines, will allow members of the public to request financial grant information and assistance under the new SRL without disruption.