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**FEDERAL EMERGENCY  
MANAGEMENT AGENCY****44 CFR Part 64**

[Docket No. FEMA-7708]

**List of Communities Eligible for the  
Sale of Flood Insurance****AGENCY:** Federal Emergency  
Management Agency (FEMA).**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

**EFFECTIVE DATES:** The dates listed in the third column of the table.

**ADDRESSES:** Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638-6620.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Shea, Jr., Division Director, Program Support Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646-3619.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return,

communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Associate Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Associate Director finds that the delayed effective dates would be contrary to the public interest. The Associate Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

**National Environmental Policy Act**

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act**

The Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U. S. C. 601 *et seq.*, because the rule creates

no additional burden, but lists those communities eligible for the sale of flood insurance.

**Regulatory Classification**

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Paperwork Reduction Act**

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**Executive Order 12612, Federalism**

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

**Executive Order 12778, Civil Justice Reform**

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

1. The authority citation for Part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 64.6 [Amended]**

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community number	Effective date of eligibility	Current effective map date
<b>New Eligibles—Emergency Program</b>			
Iowa: Mitchell County, unincorporated areas .....	190892	January 8, 1999 .....	June 11, 1977.
Georgia:			
Johnson County, unincorporated areas .....	130567	January 11, 1999 .....	
Truetlen County, unincorporated areas .....	130175	January 22, 1999 .....	
Kentucky: Menifee County, unincorporated areas ....	210344	January 25, 1999 .....	
<b>New Eligibles—Regular Program</b>			
Florida: Hampton, city of, Bradford County .....	120627	January 15, 1999 .....	November 15, 1989.
North Carolina:			
Red Oak, town of Nash County <sup>1</sup> .....	370516	January 22, 1999 .....	January 20, 1982.
Carolina Shores, town of, Brunswick County <sup>2</sup> ..	370517	January 26, 1999 .....	August 18, 1992 & February 4, 1988.

State/location	Community number	Effective date of eligibility	Current effective map date
<b>Reinstatements</b>			
Michigan:			
Selma, township of, Wexford County .....	260757	April 7, 1986, Emerg; September 30, 1988, Reg; August 3, 1998, Susp; January 15, 1999, Rein.	August 3, 1998.
<b>Regular Program Conversions</b>			
<b>Region II</b>			
New Jersey: Berkeley Heights, township of, Union County.	340459	January 6, 1999, Suspension Withdrawn .....	January 6, 1999.
<b>Region III</b>			
West Virginia: Jefferson County, unincorporated areas.	540065	.....do .....	Do.
<b>Region V</b>			
Minnesota:			
Henderson, city of, Sibley County .....	270440	.....do .....	Do.
Red Wing, city of, Goodhue County .....	270146	.....do .....	Do.
Sibley County, unincorporated areas .....	270620	.....do .....	Do.
Ohio:			
Mason, city of, Warren County .....	390559	.....do .....	Do.
<b>Region IX</b>			
Nevada:			
Churchill County, unincorporated areas .....	320030	.....do .....	Do.
Fallon, city of, Churchill County .....	320002	.....do .....	Do.
<b>Region VI</b>			
Louisiana:			
Duson, town of, Lafayette Parish .....	220104	January 20, 1999, Suspension Withdrawn .....	January 20, 1999.
Lafayette Parish, unincorporated areas .....	220101	.....do .....	Do.
Oklahoma:			
Cleveland County, unincorporated areas .....	400475	.....do .....	Do.
Norman, city of, Cleveland County .....	400046	.....do .....	Do.
Slaughterville, town of, Cleveland County .....	400539	.....do .....	Do.
Texas:			
Ellis County, unincorporated areas .....	480798	.....do .....	Do.
Midlothian, city of, Ellis County .....	480801	.....do .....	Do.
Ovilla, city of, Ellis County .....	481155	.....do .....	Do.
Palmer, city of, Ellis County .....	480209	.....do .....	Do.
Waxahachie, city of, Ellis County .....	480211	.....do .....	Do.
<b>Region VII</b>			
Kansas:			
Perry, city of, Jefferson County .....	200153	.....do .....	Do.
<b>Region VIII</b>			
Wyoming:			
Ranchester, town of, Sheridan County .....	560046	.....do .....	Do.
Thermopolis, town of, Hot Springs County .....	560026	.....do .....	Do.
<b>Region IX</b>			
California:			
Burbank, city of, Los Angeles County .....	065018	.....do .....	Do.
Santa Clara, city of, Santa Clara County .....	060350	.....do .....	Do.
<b>Region X</b>			
Washington:			
Okanogan County, unincorporated areas .....	530117	.....do .....	Do.

<sup>1</sup> The Town of Red Oak has adopted the Nash County (CID #370278) Flood Insurance Rate Map dated January 20, 1982, panel 80.

<sup>2</sup> The Town of Carolina Shores has adopted the Brunswick County (CID #370295) Flood Insurance Rate Map dated August 18, 1992, panel 315 and the Town of Calabash (CID #370395) Flood Insurance Rate Map dated February 4, 1988.

Code for reading third column: Emerg.-Emergency; Reg.-Regular; Rein.-Reinstatement; Susp.-Suspension; With.-Withdrawn; NSFHA-Non Special Flood Hazard Area.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: February 22, 1999.

**Michael J. Armstrong,**

*Associate Director for Mitigation.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### 45 CFR Part 60

RIN 0906-AA42

#### National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Charge for Self-Queries

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the existing regulations implementing the Health Care Quality Improvement Act of 1986 (the Act), which established the National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners (the Data Bank). The final rule amends the existing fee structure so that the Data Bank can fully recover its costs, as required by law. This rule removes the prohibition against charging for self-queries and, therefore, allows the Data Bank to assess costs in an equitable manner. This is consistent with both the Freedom of Information Act and the Privacy Act which allow the Government to charge fees for the reproduction of records. The Data Bank will continue its current practice of sending to the practitioner in whose name it was submitted—automatically, without a request, and free of charge—a copy of every report received by the Data Bank for purposes of verification and dispute resolution.

**EFFECTIVE DATE:** These regulations are effective March 1, 1999. The Department has announced a notice, published elsewhere in this issue, the actual fee and its effective date.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A-55, 5600 Fishers Lane, Rockville, Maryland 20857; telephone: (301) 443-2300.

**SUPPLEMENTARY INFORMATION:** On March 24, 1998, the Secretary published a

Notice of Proposed Rulemaking (NPRM) (63 FR 14059) in order to remove the prohibition against charging practitioners a fee when they request information about themselves (self-query). The Department received four public comments opposing the provisions of this rule. The Secretary would like to thank the respondents for the thoroughness and quality of their comments. Among the four comments received, seven specific issues were raised. These seven issues and the Department's responses to these issues appear below.

One respondent mistakenly cited § 60.12 of the Data Bank regulations (45 CFR part 60) as a section of the legislation, the Health Care Quality Improvement Act of 1986, as amended, that led to the creation of the Data Bank. The respondent subsequently erroneously concluded that the Act prevents the Data Bank from establishing a fee for self-queries.

The Department would like to clarify that the Act does not preclude the Data Bank from charging a fee for self-queries. Section 427(b)(4) of the Act states:

The Secretary may establish or approve reasonable fees for disclosure of information \* \* \*

It is the current regulatory language, which this Final Rule amends, that is preventing the Data Bank from charging a fee for self-queries.

Two respondents indicated that health care practitioners should not have to pay a fee in order to exercise their Privacy Act rights to view Data Bank information about themselves.

Section 522(f)(5) of the Privacy Act does allow for the imposition of fees for providing individuals copies of their own Federal records, such as those contained in the Data Bank. Nevertheless, the Department will continue to appropriately respond to its obligations under the Privacy Act and its own policy of fair information practice by proactively providing a copy to the practitioner in whose name it was submitted—free of charge—a copy of every report received by the Data Bank for purposes of verification and dispute resolution. However, the Department reiterates that the purpose of the great majority of the self-queries that the Data Bank receives is not about practitioners' exercising their Privacy Act rights to access to information about themselves. In conversations with practitioners who call for self-query assistance, nearly all indicate that they are acting under duress and in response to demands from licensing bodies and other entities to submit copies of their Data Bank records

as a condition of doing business. In exchange for these records, these practitioners expect to benefit by obtaining licenses to practice, membership in various organizations or, perhaps, malpractice insurance.

Two respondents questioned why the cost of self-queries should be shifted to the practitioners, when it is the licensing bodies and other entities that, by forcing practitioners to submit their self-query results in order to obtain licensure or membership, are creating the great increase in the volume of self-queries.

The Department encourages authorized queriers, such as licensing boards, to query the Data Bank directly to ensure they are getting accurate and complete information. However, since these organizations are not required by the Act to query, the Department has no way of mandating that they query the Data Bank directly, instead of requiring practitioners to provide self-query responses.

One respondent indicated that the Department should charge the entities, such as licensing bodies and malpractice insurers, that are forcing practitioners to provide their self-query responses in order to obtain licensure or malpractice insurance. The Department does not know which entities are requiring self-query responses, and has neither the legal authority to charge the entity nor any practical way to collect the fee from the entity.

One respondent indicated that the Department should focus its efforts on thwarting unauthorized entities, such as managed care organizations without formal peer review processes, who are "abusing the law" by requiring practitioners to submit their self-query results in order to obtain membership.

The Department shares these concerns about unauthorized entities obtaining Data Bank information. However, under current law, the Department cannot prosecute any act related to the use of Data Bank information other than unlawful disclosure. It is the Secretary's position that a practitioner's disclosure of his or her own Data Bank records is not unlawful disclosure. In other words, practitioners may give copies of self-query responses to anyone they choose.

One respondent asked that the Department take into account the financial burden the self-query fee would place on physicians, particularly young physicians as they apply for licensure and membership.

The Department will make every effort to ensure that the self-query fee is nominal and no more than is necessary to recover the costs of processing.