

SECTION 203(b) OF THE NATIONAL HOUSING ACT  
EXTENSION OF WAIVER OF REQUIREMENTS UNDER 24 C.F.R. § 203.43f

Pursuant to the authority of the Secretary under Section 7(q) of the Department of Housing and Urban Development Act and the waiver authority contained in 24 C.F.R. § 5.110, I hereby make the following Findings and Determinations.

FINDINGS

1. Section 203 of the National Housing Act (12 U.S.C. § 1709) authorizes the Secretary of the U.S. Department of Housing and Urban Development (“HUD” or the Department) through the Federal Housing Administration (FHA), to insure mortgages on one- to four- family unit dwellings.
2. FHA’s regulations for implementing Section 203 are found, generally, at 24 C.F.R. Part 203.
3. 24 C.F.R. § 203.43f authorizes the insuring of manufactured homes built pursuant to the National Manufactured Home Construction and Safety Standards and meeting certain other requirements set forth therein.
4. The third sentence in 24 C.F.R. § 203.43f(c)(i) states that for manufactured homes which have not been permanently sited for more than one year prior to the date of application for mortgage insurance, the **finished grade** beneath the manufactured home shall be at or above the 100 year return frequency flood elevation.
5. The last sentence in 24 C.F.R. § 203.43f(d)(ii) provides that for manufactured homes which have been permanently erected on a site for more than one year prior to the date of application for mortgage insurance, the **finished grade level** beneath the manufactured home shall be at or above the 100 year return frequency flood elevation.
6. The requirements of 24 C.F.R. § 203.43f differ from HUD’s regulations governing minimum property standards for one-and two-family dwellings found at 24 C.F.R. § 200.926 and the requirements for the National Flood Insurance program (NFIP) found at 44 C.F.R. § 60.3. The minimum property standards at 24 C.F.R. §§ 200.926d(c)(4)(i) and (ii) provide that the elevation of the **lowest floor** in structures with basements, located in FEMA-designated areas of special flood hazard, shall be at or above the base flood level (100 year flood level) required for new construction or substantial improvement of residential structures under regulations for the NFIP (44 C.F.R. § 60.3 through § 60.6). The elevation of the **lowest floor** of residential structures without basements, located in a FEMA-designated area of special flood hazards, must be at or above the FEMA-designated base flood elevation (100 year flood level).

7. The NFIP placement or substantial improvement requirements for manufactured homes are primarily set forth in 44 C.F.R. § 60.3(c)(6) where 44 C.F.R. § 60.3(c)(6) (iv) specifically requires, in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, that the unit be elevated on a permanent foundation such that the **lowest floor** on the manufactured home is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement. Placement or substantial improvement requirements for manufactured homes that are not subject to the provisions of 44 C.F.R. § 60.3(c)(6) are set forth in 44 C.F.R. § 60.3(c)(12). This section provides that the manufactured home be elevated so that either:
- (a) The **lowest floor** of the manufactured home is at or above the base flood elevation, or
  - (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement.
8. As a result of the conflict between 24 C.F.R. § 203.43f which is based on flood elevation requirements measured from the “finished grade beneath the manufactured home” and flood elevation requirements measured from the “lowest floor” of the manufactured home provided in 24 C.F.R. §§ 200.926d(c)(4)(i) and (ii) and 44 C.F.R. §§ 60.3(c)(6)(iv) and (c)(12), some lenders are refusing FHA-insured loans on manufactured homes that are being sited in flood zone areas on the grounds that FHA could deny insurance.
9. On October 12, 2006, the Federal Housing Commissioner, at the request of the Office of Single Family Housing, granted a waiver of the regulations at 24 C.F.R. § 203.43f to permit the placement of FHA mortgage insurance on manufactured homes installed in FEMA-designated flood plains in accordance with the NFIP installation requirements for manufactured homes found at 44 C.F.R. § 60.3(c)(6) or 44 C.F.R. § 60.3(c)(12). This waiver was for one year. The waiver was extended for one year in 2007, 2008, 2009 and 2010.

The Office of Single Family Housing has initiated the rulemaking process to amend its regulations by publishing a Proposed Rule on September 15, 2008 entitled “FHA Insurance for Manufactured Housing” (FR-5075-P-01) followed with a publication of Proposed Rule; Re-Opening of Public Comment Period on February 4, 2010 (FR-5075-N-02). At this time, Single Family Housing, intends to recommence the rulemaking process to amend the

subject regulations solely for the flood hazard requirements for Title II manufactured housing.

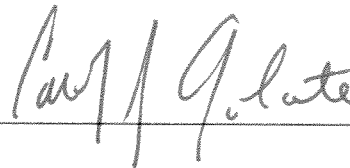
10. Failure to extend the waiver would interrupt the sale of manufactured homes in the State of Louisiana that would be sited in flood designated areas, since some lenders are refusing FHA-insured loans on manufactured homes being sited in these areas on the grounds FHA insurance could be denied.

#### DETERMINATIONS

1. Therefore, pursuant to the authority contained in 24 C.F.R. § 5.110, good cause has been shown that it is in the public's interest and consistent with the Department's objectives, to waive the requirements in the third sentence of 24 C.F.R. § 203.43f(c)(i) and the last sentence in 24 C.F.R. § 203.43f(d)(ii) to permit the placement of FHA mortgage insurance on manufactured homes installed in FEMA-designated flood plains in accordance with 24 C.F.R. §§ 200.926d(c)(4)(i) and (ii) and the NFIP placement and substantial improvement requirements for manufactured homes found at 44 C.F.R. § 60.3(c)(6)(iv) or 44 CFR § 60.3(c)(12).
2. The waiver of the regulations requiring that the finished grade level beneath the manufactured home to be at or above the 100 year return frequency flood elevation will not violate any statutory requirements.
3. The regulations in the third sentence of 24 C.F.R. § 203.43f(c)(i) and the last sentence in 24 C.F.R. § 203.43f(d)(ii) are hereby waived to permit the placement of FHA mortgage insurance on manufactured homes, sited in the State of Louisiana, in flood designated areas, with the lowest floor at or above the 100 year return frequency, and otherwise conforming with HUD requirements for Title II, Section 203(b) insured financing of manufactured homes.

This waiver shall be in effect for one year from its effective date or the effective date of a Final Rule described in paragraph 8 under Findings, whichever occurs first.

Issued     JUL 24    , 2012



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 Carol J. Galante  
 Acting Assistant Secretary for Housing-  
 Federal Housing Commissioner