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# Five Regulatory Agencies Proposal to Implement Biggert-Waters Flood Insurance Act: Joint Notice of Proposed Rulemaking

## Arkansas Environmental, Energy, and Water Law Blog

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Five federal regulatory agencies (“agencies”) issued an October 31st Joint Notice of Proposed Rulemaking to Implement Provisions of the Biggert-Waters Flood Insurance Act (“Act”).

The five federal agencies are:

- Office of the Comptroller of the Currency
- Board of Governors of the Federal Reserve System
- Federal Deposit Insurance Corporation
- Farm Credit Administration
- National Credit Union Administration

The Act requires regulated lending institutions to accept certain private flood insurance policies in addition to policies made available by the Federal Emergency Management Agency.

The Act amended the National Flood Insurance Program requirements that the agencies have authority to implement and enforce. It includes provisions that:

- Require the agencies to issue a rule regarding escrow premiums and fees for flood insurance
- Clarifies the requirement of forced place insurance
- Require the agencies to issue a rule to direct regulated lending institutions to accept “private flood insurance,” as required by the Act, and to notify borrowers of availability of private flood insurance

The agencies’ proposed rule:

- Includes provisions to assist lending institutions in identifying private flood insurance policies they would be required to accept
- Clarifies that lenders retain their discretion to accept private flood insurance policies that do not meet the criteria for mandatory acceptance, provided certain conditions are met
- Establishes criteria to apply in determining that coverage offered by mutual aid society provides the type of policy or coverage that qualifies as “flood insurance” for purposes of federal flood insurance laws

The agencies note that they previously issued a proposal addressing private flood insurance. See 78 Fed. Reg. 65107. Based on comments received in response to that proposal they have decided to issue this October 31st proposal for additional public comment.

[A link to the proposed rule can be downloaded here.](#)