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## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Federal Insurance  
Administration**



### **NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Criteria**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

Federal Insurance Administration

[24 CFR Parts 1909, 1910, 1911, 1914, 1915, 1917]

[Docket No. E-76-324]

### NATIONAL FLOOD INSURANCE PROGRAM

#### Proposed Criteria

Pursuant to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001-4128, effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended by sections 408-410 of the Housing and Urban Development Act of 1969 (Pub. L. 91-152, December 24, 1969), the Flood Disaster Protection Act of 1973 (87 Stat. 980), section 816 of the Housing and Community Development Act of 1974 (87 Stat. 975), and the Secretary's Delegation of Authority to the Federal Insurance Administrator dated February 27, 1969 (34 FR 2680), as amended January 24, 1974 (39 FR 2787), the Federal Insurance Administrator is considering the revision of Parts 1909, 1910, 1911, 1914, 1915, and 1917 as set forth below. The revisions, which are based on experience gained in the operation of the program, set forth revised criteria for flood plain management required in connection with the National Flood Insurance Program and related changes based on those revisions.

Section 1361 of the National Flood Insurance Act of 1968 requires the Federal Insurance Administrator to develop comprehensive criteria designed to encourage, where necessary, the adoption of adequate state and local measures which, to the maximum extent feasible will: (1) Constrict the development of land which is exposed to flood damage where appropriate, (2) guide the development of proposed construction away from locations which are threatened by flood hazard, (3) assist in reducing damage caused by floods, and (4) otherwise improve the long-range land management and use of flood-prone areas, and he shall work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of such criteria and the adoption and enforcement of such measures.

#### A. BACKGROUND

1. Description of program and program limits. (a) The National Flood Insurance Program was enacted by the Congress in 1968 as a means of making flood insurance, which was previously unavailable from the private insurance industry, available at reasonable rates through a joint Government-industry program, within communities that meet eligibility requirements by adopting certain flood plain management regulations, consistent with Federal criteria, to reduce or avoid flooding in connection with future construction in their flood plains.

(b) The program is highly subsidized and seeks in its early stages to assure wiser future flood plain management

rather than to obtain adequate premiums for the coverage provided. However, flood insurance for buildings constructed within identified special flood hazard areas after December 31, 1974 (or the effective date of the initial Flood Insurance Rate Map, whichever is later), can only be made available at actuarial rather than the subsidized premium rates. Such rates can be prohibitively expensive unless the buildings are properly elevated or floodproofed to lessen flood damage.

(c) Communities entering the National Flood Insurance Program generally do so in two phases. They first become eligible for the sale of flood insurance in the Emergency Program, under which only half of the program's total limits of coverage are available and all such insurance is sold at subsidized premium rates. After the flood insurance rate study has been completed, a community enters the Regular Program under which full limits of coverage are available.

(d) Under the Regular Program, buildings constructed on or before December 31, 1974 (or the effective date of the initial rate map, if later) as well as those located outside of the special flood hazard areas, remain eligible for the first half of available coverage (known as "first layer" coverage) at either subsidized rates or actuarial rates, whichever are cheaper. All other buildings can only be insured at actuarial rates on both layers of coverage.

(e) Regardless of date of construction, actuarial rates are always required for the second layer of coverage.

(f) Present limits of coverage under the Emergency Program (except in Alaska, Hawaii, the Virgin Islands and Guam) are \$35,000 on single family dwellings and \$100,000 on all other types of buildings, with \$10,000 per unit available for residential contents, and \$10,000 per building available for nonresidential contents. In Alaska, Hawaii, the Virgin Islands, and Guam, limits on residential structure coverage under the Emergency Program are \$50,000 on single-family dwellings and \$150,000 on buildings containing more than one unit.

(g) Present limits of coverage under the Regular Program are double those indicated in paragraph (f) for the Emergency Program.

(h) The regulations governing the National Flood Insurance Program are set forth in title 24 of the Code of Federal Regulations, Chapter 10, Subchapter B, commencing at Part 1909. Specific information on insurance coverage and rates is set forth in 24 CFR Part 1911, as amended.

2. Community eligibility and special flood hazard area identifications. (a) Once a community has met eligibility requirements for the Emergency Program and has submitted a copy of its preliminary flood plain management regulations, the Federal Insurance Administration arranges for the sale of flood insurance within the community in less than two weeks (normally, within 6 working days).

The eligibility date for a particular community is always published in the FEDERAL REGISTER, indexed both under HUD and under Federal Insurance Administration.

(b) Similarly, lists of communities with newly identified special flood hazard areas are regularly published in the FEDERAL REGISTER under 24 CFR Part 1915 in advance of the effective date of the identification. However, the maps showing the boundaries of such areas are not published in the FEDERAL REGISTER and must be obtained or verified as indicated in item 3, below.

(c) In addition to publication in the FEDERAL REGISTER, daily notifications are made to HUD regional offices and to National Flood Insurers Association (NFIA) servicing companies of changes in community status within their areas. Monthly lists of all eligible communities, indicating the dates of all hazard area identifications, are published in booklet form about the 15th of each month (with information current as of the end of the previous month) and are widely distributed to agencies having an interest in the flood insurance program. However, because of printing and mail delivery time lags, the published lists available at any given time may be as much as a month old. To ascertain whether a community not listed in this booklet has been subsequently identified as flood-prone, an inquiry may be made to the NFIA Servicing Company in the appropriate state or by calling the FIA toll free numbers 800-424-8872 or 800-424-8873.

(d) It is not the intent of the program to require the purchase of flood insurance for buildings located outside the curvilinear flood line and where the first floor elevations are above the base flood level. Consequently, after the publication of flood maps, the Administrator may issue amendments to the maps correcting technical mapping deficiencies.

3. Where to obtain insurance policies, maps, and program information.

(a) Insurance policies under the National Flood Insurance Program are obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIA servicing company for the State (see paragraph (c) below).

(b) The Flood Hazard Boundary Maps are the first maps prepared in the identification process. These indicate the locations of identified special flood hazard areas and are always maintained on file within each eligible community in a repository designated by the mayor or chief executive officer, usually the building inspector's office or the city clerk's office. The address of such repository is published in the FEDERAL REGISTER at 24 CFR Part 1914. The Flood Insurance Rate Maps are issued later following a detailed study of the flood hazard area. The maps delineate degrees of flood hazard and include more precise area identification.

(c) Maps, literature, and policy application forms and manuals are available from any NFIA servicing company. The servicing companies are also

equipped to answer questions on eligibility of communities, scope of coverage, and maximum amounts of insurance available with respect to particular types of buildings.

(d) Questions that cannot be answered by individual agents or brokers or by the appropriate servicing company are referred to the National Flood Insurers Association, 160 Water Street, New York, New York 10038, telephone (212) 487-4641; to the nearest HUD regional office; or the Federal Insurance Administration, HUD, Washington, D.C. (202) 755-5581, or its toll-free numbers 800-424-8872 or 800-424-8873.

(e) Copies of statutes, program regulations, and community eligibility application forms are obtained from HUD regional offices or directly from the Federal Insurance Administration in Washington. The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community currently participating in the program.

The term Federal or federally-related financial assistance includes not only loans, grants, guarantees, and similar forms of direct and indirect assistance from Federal agencies, such as FHA or VA mortgage insurance, but also any similar forms of assistance including conventional mortgage loans, from federally-insured or regulated lending institutions, such as banks, savings and loan associations, and credit unions.

Acquisition or construction purposes include all forms of construction, reconstruction, repair, or improvement to real estate, whether or not the value of the building is enhanced, and the flood insurance purchase requirement applies to both private and public recipients.

Until July 1, 1975, the statutory requirement for the purchase of flood insurance does not apply until and unless the community enters the program and the special flood hazard areas have been identified. However, after July 1, 1975, or one year after a community has been formally notified of the identification of a special flood hazard area within its boundaries, whichever is later, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program and flood insurance has been purchased.

#### B. DISCUSSION OF PROPOSED REVISION OF PRESENT PARTS 1909-1917

The discussion which follows highlights significant changes. While not an exhaustive outline it has been prepared for the convenience of the public by reference to parts, subparts and sections in the following order: Part 1909 (general provisions), Part 1910 (criteria for land management and use), Part 1911 (insurance coverage and rates), Part 1914 (areas eligible for the sale of insurance), Part 1915 (identification of

special hazard areas), and Part 1917 (appeals from flood elevation determinations and judicial review).

#### PART 1909

Technical and substantive changes have been made in Part 1909.

##### SUBPART A—GENERAL

Section 1909.1 *Definitions*. New definitions added or amendments to existing regulations include the following:

Area of special flood-related erosion hazard; area of special flood hazard; area of special mudslide (i.e. mudflow) hazard; base flood level; community; contents coverage; curvilinear line; erosion area; erosion area having special erosion hazards; erosion area management; exception; existing construction; first layer coverage; flood elevation determination; flood elevation study; flood plain management regulations; habitable floor; limits of coverage; maps; mean sea level; mobile home park; new construction; participating community; regular program; second layer coverage; servicing company; state coordinating agency; storm cellar; structure coverage; subsidized rates; and variance.

Section 1909.2 *Description of program*. This section has been revised to reflect changes made necessary because of the Flood Disaster Protection Act of 1973.

Section 1909.3 *Emergency program*. This section remains substantially unchanged.

##### SUBPART B—ELIGIBILITY REQUIREMENTS

Section 1909.22 *Prerequisites for the sale of Flood Insurance*. This section has been substantially revised to eliminate certain administrative requirements as a condition of participation in the program, and to make clear that full cooperation of the community is necessary in order to provide, on an updated and continuing basis, information concerning flood plain management within the community.

Section 1909.23 *Priorities for the sale of flood insurance under the regular program*. This section is substantially unchanged.

Section 1909.24 *Suspensions of community eligibility*. This section revises and clarifies the procedure by which the Federal Insurance Administrator suspends a community because of its failure to adequately adopt or enforce local flood plain management regulations.

#### PART 1910—CRITERIA FOR LAND MANAGEMENT AND USE

##### SUBPART A—REQUIREMENTS FOR FLOOD PLAIN MANAGEMENT REGULATIONS

Section 1910.1 *Purpose of subpart*. This section remains substantially the same.

Section 1910.3 *Required flood plain management regulations for flood-prone areas*. New additions include the following:

1. In accordance with § 1910.3(b)(3), prior to the time that the Administrator has formally determined 100-year flood

elevations for a particular community, a community must consider and utilize any available 100-year flood elevation data as criteria for administering the flood plain management regulations adopted by the community.

2. In accordance with § 1910.3(c)(6), the standards contained within specified sections of the U.S. Army Corps of Engineers publication entitled "Flood-Proofing Regulations" must be required by a community for the floodproofing of new construction and substantial improvements of non-residential structures located within special flood hazard areas. Furthermore, pursuant to § 1910.3(c)(7), a community must require, for each structure which is floodproofed, a certification by a registered professional engineer or architect attesting that the floodproofing methods utilized are reasonably adequate for the structure to withstand the 100-year flood, and all such certificates must be kept on file by the community in order that the structure may be the subject of a lower actuarial flood insurance rate.

3. In accordance with §§ 1910.3(c)(9) and 1910.3(c)(10), a distinction is made between new and existing mobile home parks located within special flood hazard areas. For new parks, specific standards are required for elevation of mobile homes to the 100-year flood level. For mobile homes moving into existing parks where concrete pads, streets and utility connections are in existence, elevation of mobile homes is not required, but full disclosure must be given to all new mobile home purchasers that the mobile home is being located in a special flood hazard area, and an evacuation plan must be filed with Disaster Preparedness Authorities. Furthermore, pursuant to §§ 1910.3(d)(7) and 1910.3(e)(6), the location of any new mobile home park is prohibited within any designated floodway and coastal high hazard area.

4. In accordance with §§ 1910.3(b)(5) and 1910.3(c)(12), riverine communities must submit to the Administrator evidence of coordination with concerned communities if any development, fill, encroachments or alteration or relocation of a watercourse may adversely affect such upstream, downstream, or adjacent communities.

5. In accordance with § 1910.3(e)(5), the use of fill for structural support is prohibited within any designated coastal high hazard area.

Section 1910.4 *Required flood plain management regulations for mudslide (i.e., mudflow) areas*. This section has been revised to add specific standards with respect to new development within mudslide (i.e., mudflow) areas, in order to replace the reliance within the existing section on the provisions of the Uniform Building Code.

Section 1910.5 *Required flood plain management regulations for flood-related erosion areas*. This section completely revises present § 1910.5, the substance of which is now included in § 1910.6. The new section adds specific



standards with respect to new development within flood-related erosion areas. The primary standard is a setback requirement permitting suitable open space uses within identified special flood-related erosion hazard areas.

Section 1910.6 *Variations and exceptions because of local conditions.* This section completely revises present § 1910.6, the substance of which is now included in § 1910.7. New additions include the following:

1. In accordance with § 1910.6(a), specific standards are included with respect to variances which a community may grant from the terms of its adopted flood plain management regulations. A community may consider the granting of a variance for new structures to be located on a lot of one-half acre or less in size where the lot is surrounded by existing structures constructed below the flood protection elevation, and for the restoration or reconstruction of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places. A variance may only be issued after the community has assured that a notice will be inserted within the real property title records stating that the structure for which a variance has been granted is located in a flood-prone area and that actuarial flood insurance rates commensurate with the risk involved apply to the property. Furthermore, a community is required to notify the Administrator in writing of the issuance and justification for any variance which has been granted, and a copy of such notification should be sent to the applicable State Coordinating Agency.

2. In accordance with § 1910.6(b), specific standards are included with respect to exceptions which the Administrator may grant to a community for the adoption of flood plain management regulations which vary from the standards within §§ 1910.3, 1910.4 or 1910.5. A type of exception permitted only after the Administrator has concurred with the community's justification for the exception, is the allowance for local flood plain management regulations to permit basements and/or storm cellars below the 100-year flood level for residential structures located in special flood hazard areas. Specifications are required for the design of any such basements and storm cellars, and if the community is granted the exception it may only permit a basement or storm cellar after conforming to the specified variance procedures.

**SUBPART B—ADDITIONAL CONSIDERATIONS MANAGING FLOOD-PRONE, MUDSLIDE (I.E., MUDDFLOW)-PRONE AND FLOOD-RELATED EROSION-PRONE AREAS**

Section 1910.21 *Purpose of this subpart.* This section is substantially unchanged.

Section 1910.22 *State and local development goals.* This section is substantially unchanged.

Section 1910.23 *Planning considerations for flood-prone areas.* This section adds several new planning considerations to those stated in the existing section.

The most important of the additions is a requirement for taking human safety into consideration in planning for flood-prone areas.

Section 1910.24 *Planning considerations for mudslide (i.e., mudflow)-prone areas.* This section has been revised to include certain additional factors in planning for mudflow-prone areas.

Section 1910.25 *Planning considerations for flood-related erosion-prone areas.* This section completely revises present § 1910.25, the substance of which is now included in § 1910.26. The new section adds planning considerations for flood-related erosion.

Section 1910.26 *State Coordination.* This new section incorporates the substance of present § 1910.25, and adds additional objectives to ensure administrative support of the program by State Coordinating Agencies.

**PART 1911—INSURANCE COVERAGE AND RATES**

Section 1911.1 The language of present section has been incorporated fully in § 1909.1 of the revised regulations.

Section 1911.4 *Limitations on coverage.* This section has been revised to clarify certain limitations with respect to the types of risk covered by the Standard Flood Insurance Policy.

Section 1911.5 *Special terms and conditions.* This section has been revised to reflect certain administrative decisions as to the types of property excluded from coverage.

**PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE**

Section 1914.1 *Purpose of part.* This section remains substantially unchanged.

Section 1914.2 *Flood Insurance Maps.* This section has been completely revised in order to reflect technical changes in the identification of special hazard areas.

Section 1914.3 *Procedures under the emergency and regular programs.* This section remains substantially the same.

**PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS**

Section 1915.1 *Purpose of part.* This section remains substantially unchanged.

Section 1915.2 The present section is deleted.

Section 1915.3 *List of communities with special hazard areas.* This section is substantially unchanged.

**PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW**

Section 1917.3 *Establishment and maintenance of a flood elevation determination.* This section remains substantially unchanged.

Section 1917.11 *Rates during pendency of final determination.* This section has been revised to clarify the effective date of a Flood Insurance Rate Map.

Interested persons are invited to participate in the making of the proposed rule by submitting such written comments or suggestions as they may desire. Communications should identify the subject matter by the above title and area

affected and should be submitted in triplicate to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 10245, 451 Seventh Street, SW., Washington, D.C. 20410. The period for comment has been extended to 60 days because of the extensive changes in the proposed regulations. All communications received on or before May 26, 1975, will be considered by the Administrator before taking action on the proposal. In addition, public hearings on the provisions of the proposed regulations will be conducted after the period for comment has closed. The public hearings will be conducted in Washington, D.C., Miami, Florida, New Orleans, Louisiana, Kansas City, Missouri and Los Angeles, California. Those persons desiring to make oral presentations will be given an opportunity to do so in accordance with the notice of hearing to be published in the FEDERAL REGISTER. The proposals contained in this notice may be changed in the light of comments received. A copy of each written submission will be available for public inspection during business hours at the above address.

Additionally, a draft Environmental Impact Statement concerning this proposed rule was filed with the Council of Environmental Quality (39 FR 43419), and additional comments concerning that statement are welcome in conjunction with comments on the proposed rule.

Accordingly, Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is proposed to be amended as follows:

**PART 1909—GENERAL PROVISIONS**

**Subpart A—General**

**§ 1909.1 [Amended]**

1. By revising § 1909.1 by amending certain definitions and adding in alphabetical sequence certain new definitions as follows:

As used in this subchapter—

"Accounting period" means any annual period during which the agreement is in effect, commencing on July 1 and ending on June 30. Each accounting period under the agreement applies separately to all policies issued under the program during the time period.

"Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. § 4001-4128.

"Actuarial rates" are those rates established by the Administrator pursuant to individual community flood level studies and investigations which are undertaken to provide flood insurance in accordance with 42 U.S.C. 4014 and with accepted actuarial principles. Actuarial rates also include provisions for operating costs and allowances. Subject to other limitations, actuarial rates are applicable only after the effective date of the Flood Insurance Rate Map (FIRM).

"Actuarial rate zone" means a zone identified on a Flood Insurance Rate Map (FIRM) as subject to a specified degree to flood, mudslide (i.e., mudflow) or flood-related erosion hazards, to

which a particular set of actuarial rates applies.

"Administrator" means the Federal Insurance Administrator, to whom the Secretary has delegated the administration of the program (34 FR 2680-81, February 27, 1969, as amended 39 FR 2787, January 24, 1974).

"Affiliates" means two or more associated business concerns which are or can be directly or indirectly controlled by one or more of the affiliates or by a third party.

"Agreement" means the contract entered into for any accounting period by and between the Administrator and the Association whereby the Association will provide policies of flood insurance under the program within designated areas and will adjust and pay claims for losses arising under such policies. The agreement is renewed automatically with respect to each subsequent accounting period unless either the Administrator or the Association gives the other written notice of intention to terminate on or before January 31 of the then current accounting period.

"Applicant" means a community which indicated a desire to participate in the National Flood Insurance Program.

"Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. Under the Emergency Program, it may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area, in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone E may be further refined. Under the Regular program, no new construction or substantial improvement can be insured in the special flood-related erosion hazard area at other than actuarial rates for both layers of flood insurance available.

"Area of special flood hazard" is the land within a community in the flood plain, which is subject to a one percent chance of flooding annually. Under the Emergency Program, it is usually designated as Zone A on the Flood Hazard Boundary Map (FHBM). After the detailed "Flood elevation study" of the special flood hazard area has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A may be segmented by refinement into Zones A, AO, A1-30, and V (V1-V30). Under the Regular program no new construction or substantial improvement can be insured in the special flood hazard area at other than actuarial rates for both layers of flood insurance available.

"Area of special mudslide (i.e., mudflow hazard)" is the land within a community which is most likely to be subject to severe mudslides (i.e., mudflows). Under the Regular Program, it is designated as Zone M, may be further refined, and no new construction or substantial improvement can be insured in the special mudslide (i.e., mudflow) hazard area at other than actuarial rates for both layers of flood insurance available.

"Association" means the National Flood Insurers Association and, as the context may indicate, the insurance pool composed of two or more of its members or any member acting for or on behalf of the Association under the agreement.

"Base flood level" or "elevation" is that elevation at all locations at which there is a one percent chance of annual flood occurrence.

"Chargeable rates" or "subsidized rates" are the rates established by the Administrator which involve financing by the Federal Government to encourage the purchase of first layer limits of flood insurance on existing structures at a reasonably affordable cost.

"Coastal high hazard area" means the portion of a flood plain having special flood hazards that is subject to high velocity waters, including hurricane wave wash and tsunamis.

"Community" means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or organization, for which an application for participation in the National Flood Insurance program is made and which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

"Contents coverage" is the insurance on personal property within an enclosed structure, including the cost of debris removal. Personal property may be household goods usual and incidental to residential occupancy or merchandise, furniture, fixtures, machinery, equipment and supplies usual to other than residential occupancies.

"Criteria" means the comprehensive criteria for land management and use developed under 42 U.S.C. 4102 for the purposes set forth in §§ 1910.21 and 1910.1 of this subchapter.

"Curvilinear Line" means the border on either a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) that delineates the special flood hazard area and consists of a curved line or contour line that follows the topography.

"Deductible" means the fixed amount or percentage of any loss not covered by insurance. The amount of the deductible must be exceeded before insurance coverage takes effect.

"Department" means the U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

"Eligible community" or "participating community" means a community in which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program.

"Emergency Flood Insurance Program" or "emergency program" means the Program as implemented on an emergency basis without individual community rate-making studies in accordance with 42 U.S.C. 4056. It is intended as a program to provide a first layer amount of insurance at federally-subsidized rates on all existing and new construction begun prior to the effective date of a Flood Insurance Rate Map (FIRM).

"Erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding. Therefore; the use of the word "erosion" within this subchapter shall mean flood-related erosion.

"Erosion area" or "erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Erosion area having special erosion hazards" means an erosion area with a high potential for flood-related erosion.

"Erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and flood plain management regulations.

"Exception" means a waiver from the provisions of Part 1910 of this subchapter B directed to a community which relieves it from the requirements of a rule, regulation, order or other determination made or issued pursuant to the Act.

"Existing construction" for the purposes of determining rates, means those structures in existence or on which construction or substantial improvement was started on or before December 31, 1974, or the effective date of the Flood Insurance Rate Map (FIRM), whichever is later. For the purposes of flood plain management regulations requirements, existing construction means those structures in existence or on which construction or substantial improvement was started prior to the effective date of a flood plain management regulation adopted by a community. "Existing construction" may also be referred to as "existing structures."

"First-layer coverage" is the maximum amount of structural and contents insurance coverage available under the Emergency Program (i.e., one-half the maximum amount of insurance available under the Regular Program).

"Flood" or "Flooding" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
  - c. Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of



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water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in 1(a) above.

"Flood elevation determination" means a determination by the Administrator of the level of the 100-year flood; that is, the level of flooding that has a one percent chance of occurring during any given year.

"Flood elevation study" or "Flood Insurance Study" means a scientific examination, evaluation and determination of flood hazards and corresponding water surface elevations, or a scientific examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

"Flood Hazard Boundary Map" (FHBM) means an official map or plat of a community, issued or approved by the Administrator, on which the boundaries of the flood plain, mudslide (i.e., mudflow) and/or flood-related erosion areas having special hazards have been drawn.

"Flood insurance" means the insurance coverage provided under the program.

"Flood Insurance Rate Map" (FIRM) means an official map of a community, on which the Administrator has delineated the area in which flood insurance may be sold under the regular flood insurance program and the actuarial rate zones applicable to such area.

"Flood plain" or "flood-prone area" means any normally dry land area that is susceptible to being inundated by water from any source (see definition of flooding).

"Flood plain area having special flood hazards" means that maximum area of the flood plain that, on the average, is likely to be flooded once every 100-years (i.e., that has a 1-percent chance of flood occurrence in any given year).

"Flood plain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and flood plain management regulations.

"Flood plain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances such as a flood plain ordinance, grading ordinance and erosion control ordinance, and other applications and extensions of the normal police power. The term describes such legally-enforceable regulations, in any combination thereof, which provide standards for the control of the use and occupancy of flood-prone, mudslide (i.e., mudflow)-prone and/or flood-related erosion-prone areas.

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to lands, water

and sanitary facilities, structures, and contents of buildings.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water-surface elevation more than one foot at any point.

"Floodway encroachment lines" means the lines marking the limits of floodways on official Federal, State, and local flood plain maps.

"Habitable Floor" means any floor used for living, which includes working, sleeping, eating, cooking or recreation, or combination thereof. A floor used only for storage purposes is not a Habitable Floor.

"Insurance adjustment organization" means any organization or person engaged in the business of adjusting loss claims arising under insurance policies issued by an insurance company or other insurer.

"Insurance company" or "insurer" means any person or organization authorized to engage in the insurance business under the laws of any State.

"Limits of coverage" are the maximum amounts of structural and contents flood insurance coverage available under either the Emergency or Regular Program.

"Maps" are the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) published by the Federal Insurance Administration.

"Mean sea level" means the average height of the sea for all stages of the tide over a nineteen year period, usually determined from hourly height observations on an open coast or in adjacent waters having free access to the sea.

"Mobile home park" means a parcel (or contiguous parcels) of land which has been so designated and improved that it contains two or more mobile home lots available to the general public for rent or sale and the placement thereon of mobile homes for occupancy.

"Mudslide" (i.e., mudflow) describes a condition where there is actually a river, flow or inundation of liquid mud down a hillside usually as a result of a dual condition of loss of brush cover, and the subsequent accumulation, usually preceded by a period of unusually heavy or sustained rain, of water on or under the ground. A mudslide (i.e., mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by FIA, only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

"Mudslide (i.e., mudflow) prone area" means an area with land surfaces and slopes of unconsolidated material where the history, geology and climate indicate a potential for mudflow.

"Mudslide (i.e., mudflow) area having special mudslide hazards" means a mudslide (i.e., mudflow) area with a high potential for mudslides (i.e., mudflow).

"Mudslide (i.e., mudflow) area management" means the operation of an overall program of corrective and preventive measures for reducing mudslide

(i.e., mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and flood plain management regulations.

"National Flood Insurers Association" is the Association sponsoring the industry flood insurance pool formed in accordance with sections 1331 and 1332 of the Act (see "Agreement" and "Association"). The association headquarters is currently located at 160 Water Street, New York, New York 10038.

"New construction," for purposes of determining rates, means those structures the construction or substantial improvement of which is begun after December 31, 1974, or the effective date of the Flood Insurance Rate Map (FIRM), whichever is later. New construction, for the purposes of determining rates, also means those mobile homes within mobile home parks for which construction has started after December 31, 1974, or the effective date of the Flood Insurance Rate Map (FIRM), whichever is later, and which are located within a new mobile home park, an expansion to an existing mobile home park, or within an existing mobile home park where the repair, reconstruction or improvement of streets, utilities, and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced. New construction, for the purposes of flood plain management regulations, means construction started after the effective date of a flood plain management regulation adopted by a community.

"100-year flood" means a flood event having a one percent chance of occurrence in any given year.

"Participating community," also known as an "eligible community", means a community in which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program.

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other organized group of persons, including State and local governments and agencies thereof.

"Policy" means the Standard Flood Insurance Policy.

"Policyholder premium" means the total insurance premium payable by the insured for the coverage or coverages provided under the policy. The calculation of the policyholder premium may be based upon either chargeable rates or actuarial rates, or a combination of both.

"Program" means the overall National Flood Insurance Program authorized by 42 U.S.C. 4001-4128.

"Regular Program" means the Regular Flood Insurance Program as authorized by the Act under which buildings constructed on or before December 31, 1974 (or before the effective date of the rate map, if later), as well as those located outside of the special flood hazard areas, remain eligible for the first half of available coverage (known as "first layer" coverage) at either subsidized

rates or actuarial rates, whichever are lower. All other buildings require actuarial rates on both layers of coverage. Regardless of date of construction, actuarial rates are always required for the second layer of coverage, which is made available upon the effective date of the Flood Insurance Rate Map (FIRM).

"Second layer coverage" is the increased coverage, over the first layer, available only under the Regular Program at actuarial rates.

"Secretary" means the Secretary of Housing and Urban Development.

"Servicing company" means the insurance company which represents the National Flood Insurers Association and handles the issuance and servicing of all policies under the National Flood Insurance Program for the particular community.

"Standard Flood Insurance Policy" means the flood insurance policy promulgated by the Federal Insurance Administration and issued by the National Flood Insurers Association.

"Start of construction" means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not a part of the main structure. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation for sites other than mobile home parks, or the affixing of any prefabricated structures to its permanent site. For mobile home parks which are equipped with concrete pads on which mobile homes are to be placed, "start of construction" means the time at which the pouring of the pads has begun. For mobile home parks which are not equipped with concrete pads, "start of construction" means the date on which the installation of utilities and final site grading are completed, and all park roads are completed and paved.

"State" means the several States, the District of Columbia, the territories and possessions, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

"State coordinating agency" means the agency of the state government designated by the Governor of the state at the request of the Administrator to coordinate the flood insurance program in that state.

"Storm cellar" means a room below grade, the total area of which is large enough only to accommodate the occupants of the structure as a means of temporary shelter against severe tornado and similar wind storm activity.

"Structure" means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a mobile home on foundation. The term includes a building while in the course of construction, alteration or repair, but does not include building material or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

"Structure coverage" is insurance on a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a mobile home on foundation. The words "structure" and "building" have identical meanings for the purposes of the National Flood Insurance Program.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences. The term does not include any repair, reconstruction, or improvement of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Subsidized rates," or "chargeable rates" are the rates established by the Administrator which involve subsidization by the Federal Government to encourage the purchase of first layer limits of flood insurance on existing structures at a reasonably affordable cost.

"Variance" means a grant of relief by a community to a person from the terms of a flood plain management regulation permitting construction in a manner otherwise prohibited by the regulation where specific enforcement would result in unnecessary hardship.

"Water surface elevation" means the heights in relation to Mean Sea Level expected to be reached by floods of various magnitudes and frequencies at pertinent points in the flood plains of coastal or riverine areas.

2. By revising § 1909.2 to read as follows:

#### § 1909.2 Description of program.

(a) The National Flood Insurance Act of 1968 was enacted by Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448, August 1, 1968) to provide previously unavailable flood insurance protection to property owners in flood-prone areas. Mudslide (as defined in § 1909.1 of this subpart) protection was added to the program by the Housing and Urban Development Act of 1969 (Pub. L. 91-152, December 24, 1969). Erosion (as defined in § 1909.1 of this subpart) protection was added to the program by the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, December 31,

1973). The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving Federal or Federally-related financial assistance for acquisition or construction purposes with respect to structures within an identified special flood, mudslide (i.e., mudflow), or flood-related erosion hazard area that is located within any community participating in the program. The Act also requires that on and after July 1, 1975, or one year after a community has been formally notified of its identification as a community containing one or more special flood, mudslide (i.e., mudflow), or flood-related erosion hazard areas, no Federal or Federally-related financial assistance for acquisition or construction purposes shall be provided for structures within such an area unless the community in which the area is located is then participating in the program. The program operates through an insurance industry pool under the auspices of the National Flood Insurers Association by means of a Federal subsidy to make up the difference between actuarial rates and the rates actually charged to consumers for the protection provided.

(b) To qualify for the sale of federally-subsidized flood insurance, a community must adopt and submit to the Administrator as part of its application flood plain management regulations, consistent with subpart A of Part 1910 of this subchapter, and designed to reduce or avoid future flood, mudslide (i.e., mudflow) or flood-related erosion damages. These regulations must include effective enforcement provisions.

(c) [Reserved].

(d) Minimum requirements for adequate flood plain management regulations are set forth in § 1910.3 of this subchapter for flood-prone areas, in § 1910.4 of this subchapter for mudslide (i.e., mudflow) areas and in § 1910.5 of this subchapter for flood-related erosion areas. Each community must meet the applicable requirements and standards which are based on the amount of technical information available to the community, unless the community is granted an exception in accordance with § 1910.6 (b) of this subchapter.

3. By revising § 1909.3 to read as follows:

#### § 1909.3 Emergency program.

The 1968 Act required a ratemaking study to be undertaken for each community before it could become eligible for the sale of flood insurance. Since this requirement resulted in a delay in providing insurance, the Congress, in section 408 of the Housing and Urban Development Act of 1969 (Pub. L. 91-152, December 24, 1969), established an Emergency Flood Insurance Program as a new section 1336 of the National Flood Insurance Act (42 U.S.C. 4056) to permit the early sale of insurance in flood-prone communities. The emergency program (which was extended for the period ending December 31, 1975) does not affect the requirement that a community



must adopt adequate flood plain management regulations but permits insurance to be sold before a study is conducted to determine actuarial rates for the community. The program still requires the charging of actuarial rates for higher limits of coverage for existing structures and for all new construction in areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards on and after the effective date of the FIRM. Under existing law, the emergency program expires December 31, 1975, and unless extended no properties can be initially insured nor can existing policies be renewed except those in communities for which actuarial rates are available.

#### Subpart B—Eligibility Requirements

4. By revising § 1909.22 in part to read as follows:

§ 1909.22 Prerequisites for the sale of flood insurance.

(a) To qualify for Federal flood insurance a community must apply for the entire area within its jurisdiction, and must submit:

(3) A copy of the flood plain management regulations the community has adopted to meet the requirements of §§ 1910.3, 1910.4, or § 1910.5 of this subchapter. This submission shall include copies of any zoning, building, and subdivision regulations, health codes, special purpose ordinances (such as a flood plain ordinance, grading ordinance, or flood-related erosion control ordinance), and any other corrective and preventive measures enacted to reduce or prevent flood, mudslide (i.e., mudflow) or flood-related erosion damage;

(4) [Reserved].

(5) [Reserved].

(6) [Reserved].

(8) Estimates relating to the community as a whole and to the flood, mudslide (i.e., mudflow) and flood-related erosion prone areas concerning:

(iv) Number of all other structures;

(10) A summary of any State or Federal activities with respect to flood plain, mudslide (i.e., mudflow) or flood-related erosion area management within the community, such as federally-funded flood control projects and State-administered flood plain management regulations;

(11) [Reserved].

(12) A commitment to recognize and duly evaluate flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards in all official actions relative to land use in the areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards and to take such other official action as may be reasonably necessary to carry out the objectives of the program; and

(13) A commitment to:

(i) Delineate or assist the Administrator, at his request, in delineating the

limits of the areas having special flood, mudslide (i.e., mudflow) or flood-related erosion hazards on available local maps of sufficient scale to identify the location of building sites;

(ii) Provide such information as the Administrator may request concerning present uses and occupancy of the flood plain, mudslide (i.e., mudflow) or flood-related erosion area;

(iii) Maintain for public inspection and furnish upon request, with respect to each area having special flood hazards identified on a Flood Hazard Boundary Map (FHBM) or a Flood Insurance Rate Map (FIRM), any certificates of flood-proofing, and information on elevations (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and, where the lowest floor is below grade on one or more sides, the elevation of the floor immediately above; and

(iv) Cooperate with Federal, State, and local agencies and private firms which undertake to study, survey, map, and identify flood plain, mudslide (i.e., mudflow) or flood-related erosion areas, and cooperate with neighboring communities with respect to the management of adjoining flood plain, mudslide (i.e., mudflow) and/or flood-related erosion areas in order to prevent aggravation of existing hazards;

(v) Notify the Administrator in writing whenever the boundaries of the community have been expanded by annexation or by otherwise assuming authority to adopt and enforce flood plain management regulations for a particular area. A copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed flood plain management regulatory authority, should be included within such notification in order that all Flood Hazard Boundary Maps and Flood Insurance Rate Maps may accurately represent the community's boundaries.

(b) An applicant must also legislatively:

(2) Designate an official responsible to submit, on each anniversary date of the community's initial eligibility, an annual report to the Administrator on the progress made during the past year within the community in the development and implementation of flood plain, mudslide (i.e., mudflow) area, and flood-related erosion area management measures.

5. By revising § 1909.23 to read as follows:

§ 1909.23. Priorities for the sale of flood insurance under the regular program.

Communities which comply with the requirements of § 1909.22 are placed on a register of areas eligible for ratemaking studies and will be selected from this register for Flood Insurance Studies on the basis of the following considerations—

(a) Location of community and urgency of need for flood insurance;

(b) Population of community and intensity of existing or proposed development of the flood plain, the mudslide (i.e., mudflow) and the flood-related erosion area;

(c) Availability of information on the community with respect to its flood, mudslide (i.e., mudflow) and flood-related erosion characteristics and previous losses.

(d) Recommendations of State officials as to communities within the State which should have priorities in flood insurance availability; and

(e) Extent of State and local progress in flood plain, mudslide (i.e., mudflow) area, and flood-related erosion area management, including actual adoption of flood plain management regulations consistent with related ongoing programs in the area.

6. By revising § 1909.24 in part, to read as follows:

§ 1909.24 Suspensions of community eligibility.

(a) A community eligible for the sale of flood insurance shall be subject to suspension from the program for failing to submit, within six months from the date it receives the data set forth in paragraphs (b), (c), (d) or (e) of § 1910.3 or paragraph (b) of § 1910.4 or § 1910.5, copies of adequate flood plain management regulations meeting the minimum requirements of the applicable paragraph. Where there has not been any submission by the community, the Administrator shall notify the community that it must submit adequate flood plain management regulations within 90 days of the notification. Where there has been an inadequate submission, the Administrator shall notify the community of the specific deficiencies in its submitted flood plain management regulations and inform the community that it must correct the itemized deficiencies within 90 days of the notification. If the Administrator does not receive copies of adequate flood plain management regulations within the 90 day period, he shall, through written notice to the community and publication in the FEDERAL REGISTER, provide notice of the community's loss of eligibility for the sale of flood insurance, such suspension to become effective in 30 days. Should the community remedy the defect and the Administrator receive copies of adequate flood plain management regulations within the notice period, the suspension notice shall be rescinded by the Administrator. The community's eligibility shall remain terminated after suspension until copies of adequate flood plain management regulations have been received and approved by the Administrator.

(c) A community eligible for the sale of flood insurance which fails to adequately enforce its adopted flood plain management regulations meeting the minimum requirements set forth in the applicable paragraph of §§ 1910.3, 1910.4



or § 1910.5 shall be subject to suspension of its program eligibility. Under such circumstances, the Administrator shall inform the community upon 30 days prior written notice and publication in the FEDERAL REGISTER of its loss of eligibility for the sale of flood insurance. The community's eligibility shall only be reinstated by the Administrator upon his receipt of a local legislative or executive measure stating the community's formal intent to adequately enforce the flood plain management regulations adopted in compliance with the requirements of this subpart, together with evidence of action taken by the community to abrogate, to the maximum extent possible, the action(s) which caused the suspension. In such cases, the Administrator may withhold reinstatement of the community's eligibility for a period not to exceed one year from the date of his receipt of the submission in order to provide the Administrator with a reasonable time to evaluate the community's performance under the terms of its submission.

**PART 1910—CRITERIA FOR LAND MANAGEMENT AND USE**

**Subpart A—Requirements for Flood Plain Management Regulations**

7. By revising § 1910.1 to read as follows:

**§ 1910.1 Purpose of subpart.**

(a) The Act provides that flood insurance shall not be sold or renewed under the program within a community after December 31, 1971, unless the community has adopted adequate flood plain management regulations consistent with Federal criteria. Responsibility for establishing such criteria is delegated to the Administrator.

(b) This subpart sets forth the criteria developed in accordance with the Act by which the Administrator will determine the adequacy of a community's flood plain management regulations. These regulations must be legally enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone, mudslide (i.e., mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over any less restrictive conflicting local laws, ordinances or codes. Except as otherwise provided in § 1910.6, the adequacy of such regulations shall be determined on the basis of the standards set forth in § 1910.3 for flood-prone areas, § 1910.4 for mudslide areas and § 1910.5 for erosion areas.

(c) Nothing in this subpart shall be construed as modifying or replacing the general requirement that all eligible communities must take into account flood, mudslide (i.e., mudflow) and flood-related erosion hazards, to the extent that they are known in all official actions relating to land management and use.

8. By revising § 1910.2 to read as follows:

**§ 1910.2 Minimum compliance with flood plain management criteria.**

(a) A flood-prone community applying for flood insurance eligibility must meet the standards of § 1910.3(a) in order to become eligible if a Flood Hazard Boundary Map (FHBM) has not been issued for the community at the time of application. Thereafter, the community will be given a period of six months from the date it receives the data set forth in § 1910.3 (b), (c), (d), or (e) in which to meet the requirements of the applicable paragraph. If a community has received a Flood Hazard Boundary Map (FHBM), but has not yet applied for program eligibility, the community must apply for eligibility directly under the standards set forth in § 1910.3(b). Thereafter, the community will be given a period of six months from the date it receives the data set forth in § 1910.3 (c), (d), or (e) in which to meet the requirements of the applicable paragraph.

(b) A mudslide (i.e., mudflow)-prone community applying for flood insurance eligibility must meet the standards of § 1910.4(a) to become eligible. Thereafter, the community will be given a period of six months from the date the mudslide (i.e., mudflow) areas having special mudslide hazards are delineated in which to meet the requirements of § 1910.4(b).

(c) A flood-related erosion-prone community applying for flood insurance eligibility must meet the standards of § 1910.5(a) to become eligible. Thereafter, the community will be given a period of six months from the date the flood-related erosion areas having special erosion hazards are delineated in which to meet the requirements of § 1910.5(b).

(d) [Reserved]

(e) Communities identified in Part 1915 of this subchapter as containing more than one type of hazard area (i.e., flood plain area having special flood hazards, mudslide (i.e., mudflow) area having special mudslide hazards, flood-related erosion area having special erosion hazards) must adopt flood plain management regulations for each type of hazard consistent with the requirements of §§ 1910.3, 1910.4 and 1910.5.

(f) Local flood plain management regulations should be submitted to the State coordinating agency designated pursuant to § 1910.25 for its advice and concurrence. The submission to the State should clearly describe proposed enforcement procedures.

(g) The community official responsible for submitting annual reports to the Administrator pursuant to § 1909.22(b) (2) of this subchapter shall also submit copies of each annual report to any State coordinating agency.

(h) A community should assure that any comprehensive planning (particularly the land use element thereof) underway within the community is consistent with the flood plain management objectives of this Part 1910.

9. By revising § 1910.3 in part, to read as follows:

**§ 1910.3 Required flood plain management regulations for flood-prone areas.**

The Administrator generally will provide the data upon which flood plain management regulations must be based. If the Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community may initially use hydrologic and other technical data obtained from other Federal or State agencies or from consulting services, pending receipt of data from the Administrator. However, when special hazard area designations and water surface elevations have been furnished by the Administrator, they shall apply. In all cases the minimum requirements governing the adequacy of the flood plain management regulations for flood-prone areas adopted by a particular community depend on the amount of technical data formally provided to the community by the administrator. Minimum standards for communities are as follows:

(a) When the Administrator has not defined the special flood hazard areas within a community, has not provided water surface elevation data, and has not provided sufficient data to identify the floodway or coastal high hazard area, the community must—

(3) Review subdivision proposals and other proposed new developments to assure that (i) all such proposals are consistent with the need to minimize flood damage, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided so as to reduce exposure to flood hazards; and

(b) When the Administrator has identified the flood plain area having special flood hazards by the publication of a Flood Hazard Boundary Map (FHBM), but has neither produced water surface elevation data nor identified a floodway or coastal high hazard area, the community:

(1) Must require building permits for all proposed construction or other improvements in the flood plain area having special flood hazards;

(2) Must require the standards of paragraphs (a) (2), (3) and (4) of this section within the identified flood plain areas having special flood hazards;

(3) Must take reasonable measures to consider and utilize any 100-year flood elevation data available from a Federal, State or other source as criteria for administering the standards of paragraphs (a) (2), (3) and (4) of this section within the identified flood plain areas having special flood hazards and within any areas not identified as flood plain areas having special flood hazards, and;

(4) Must (1) obtain information, at the time a building permit is issued for a new structure or substantial improvement located within the identified flood plain areas having special flood hazards,

concerning the elevation (in relation to mean sea level) of the lowest floor (including basement) of the structure and, where the lowest floor is below grade on one or more sides, the elevation of the floor immediately above, and (ii) maintain a record of all such information with the official designated by the community under § 1909.22(13)(ii);

(5) Must in riverine situations, submit to the Administrator evidence of coordination with upstream, downstream or adjacent communities adversely affected by any development, fill, encroachment, or alteration or relocation of a watercourse;

(6) [Reserved]

(7) [Reserved]

(8) [Reserved]

(c) When the Administrator has identified the flood plain area having special flood hazards by the notice of a final flood elevation determination which provides water surface elevations for the 100-year flood within certain areas of special flood hazards, but the Administrator has not identified a floodway or coastal high hazard area, the community:

(1) Must require building permits for all proposed construction of other improvements in the flood plain area having special flood hazards;

(2) Must require the review of building permit applications for new construction or substantial improvements within the flood plain area having special flood hazards to assure that the proposed construction (including prefabricated homes) is designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure;

(3) Must require the review of the subdivision proposals and other proposed new developments within the flood plain area having special flood hazards to assure that (i) all such proposals are consistent with the need to minimize flood damage, (ii) all public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and (iii) adequate drainage is provided so as to reduce exposure to flood hazards;

(4) Must require new or replacement water supply systems and sanitary sewage systems within the flood plain area having special flood hazards to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during or subsequent to flooding;

(5) Must require new construction and substantial improvements of residential structures within the area of special flood hazards for which base flood elevations have been provided to have the lowest floor (including basement) elevated to or above the level of the 100-year flood, unless the community is granted an exception for the allowance of basements and/or storm

cellars in accordance with § 1910.6(b)(2);

(6) Must require new construction and substantial improvements of non-residential structures within the area of special flood hazards for which base flood elevations have been provided to have the lowest floor (including basement) elevated to or above the level of the 100-year flood, or together with attendant utility and sanitary facilities to be flood-proofed to or above the level of the 100-year flood in accordance with the standards for completely flood-proofed structures contained within sections 210.2.1 FP1 or 210.2.2 FP2 of the U.S. Army Corps of Engineers Publication entitled "Flood-Proofing Regulations," June 1972, GPO:19730-505-026 Edition or any subsequent edition thereto;

(7) Must provide that where flood-proofing is utilized for a particular structure in accordance with paragraphs (c)(6) of this section or (b)(2) of § 1910.6, a registered professional engineer or architect shall certify that the floodproofing methods are reasonably adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood, and a record of such certificates shall be maintained with the official designated by the community under § 1909.22(13)(ii);

(8) Must (i) obtain information, at the time a building permit is issued for a new structure or substantial improvement located within the identified flood plain areas having special flood hazards, concerning the elevation (in relation to mean sea level) of the lowest floor (including basement) of the structure, and where the lowest floor is below grade on one or more sides, the elevation of the floor immediately above, and (ii) maintain a record of all such information with the official designated by the community under § 1909.22(13)(ii);

(9) Must require within the area of special flood hazards for new mobile home parks for expansions to existing mobile home parks, and for new mobile homes not in a mobile home park and for existing mobile home parks where the repair, reconstruction or improvement of streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced, that (i) ground anchors for tie downs are required in accordance with the Mobile Home Manufacturers Association standards or standards determined by the Administrator, (ii) stands or lots are elevated on compacted fill or on piers within areas of special flood hazards for which base flood elevations have been provided, so that the lowest floor of the home will be at or above the 100-year flood level, (iii) adequate surface drainage and easy access for a hauler is provided, and (iv) in the instance of elevation on piers, lots are large enough to permit steps, pier foundations are placed on stable soil no more than 10 feet apart and steel reinforce-

ment is provided for piers more than 6 feet high;

(10) Must require within the area of special flood hazards for mobile homes moving into existing mobile home parks where concrete pads for the placement of mobile homes are in existence and where streets and utility connections are in existence that (i) ground anchors for tie downs are required in accordance with the Mobile Home Manufacturers Association standards or standards determined by the Administrator, (ii) the fact that the mobile home is being located in a flood plain area having special flood hazards is disclosed to the mobile home and/or lot purchaser or lessee in the purchase contract, deed or lease, and (iii) an evacuation plan indicating alternate vehicular access and escape routes is filed with Disaster Preparedness Authorities;

(11) Must require the standards of paragraph (b) of this section within any flood plain area having special flood hazards for which base flood elevations have not been provided;

(12) Must, in riverine situations, submit to the Administrator evidence of coordination with upstream, downstream, or adjacent communities adversely affected by any development, fill, encroachment, or alteration or relocation of a watercourse;

(13) Must require in riverine situations, that until a floodway has been designated, no use, including land fill, may be permitted within the flood plain area having special flood hazards for which base flood elevations have been provided unless it is demonstrated that the cumulative effect of the proposed use, when combined with all other existing and reasonably anticipated uses of a similar nature, will not increase the water surface elevation of the 100-year flood more than 1 foot at any point within the community;

(d) When the Administrator has identified the flood plain area having special flood hazards by the notice of a final flood elevation determination which provides water surface elevations for the 100-year flood within certain areas of special flood hazards, and the Administrator has provided floodway data, the community:

(1) Must meet the requirements of paragraphs (c)(1) through (c)(12) of this section;

(2) [Reserved]

(3) [Reserved]

• • • • •

(5) [Reserved]

(6) Must prohibit, within the designated floodway, fill, encroachments, and new construction and substantial improvements of existing structures, which would result in any increase in flood heights within the community during the recurrence of the 100-year flood discharge;

(7) Must prohibit, within the designated floodway, the location of any portion of a new mobile home park, of any expansion to an existing mobile home



park, and of any new mobile home not in a mobile home park.

(e) When the Administrator has identified the flood plain area having special flood hazards by the notice of a final flood elevation determination which provides water surface elevations for the 100-year flood within certain areas of special flood hazards, and the Administrator has identified a coastal high hazard area, the community:

(1) Must meet the requirements of paragraphs (c)(1) through (c)(12) of this section;

(2) Must provide that all new construction or substantial improvements within the designated coastal high hazard area be located landward of the reach of the mean high tide;

(3) Must provide that all new construction and substantial improvements within the designated coastal high hazard area be elevated on adequately anchored piles or columns to a lowest floor level (including basement) at or above the 100-year flood level and securely anchored to such piles or columns;

(4) Must provide that all new construction and substantial improvements within the designated coastal high hazard area have the space below the lowest floor free of obstructions or are constructed with "breakaway walls" intended to collapse under stress without jeopardizing the structural support of the building so that the impact on the building of abnormally high tides or wind-driven water is minimized. Such temporarily enclosed space shall not be used for human habitation;

(5) Must prohibit, within the designated coastal high hazard area, the use of fill for structural support;

(6) Must prohibit, within the designated coastal high hazard area, the location of any portion of a new mobile home park, expansion to an existing mobile home park, and any new mobile home not in a mobile home park.

10. By revising § 1910.4 in part, to read as follows:

**§ 1910.4 Required flood plain management regulations for mudslide (i.e., mudflow) areas.**

The Administrator generally will provide the data upon which flood plain management regulations must be based. If the Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community may initially use geologic and other data obtained from other Federal or State agencies or from consulting services, pending receipt of data from the Administrator. However, when special hazard area designations have been furnished by the Administrator, they shall apply. In all cases the minimum requirements governing the adequacy of the flood plain management regulations for mudslide (i.e., mudflow)-prone areas adopted by a particular community depend on the amount of technical data formally provided to the community by the Administrator. Minimum standards for communities are as follows:

(a) When the Administrator has not yet identified any area within the community as an area having special mudslide (i.e., mudflow) hazards, the community must—

(2) Require review of each permit application to determine whether the proposed site and improvements will be reasonably safe from mudslides (i.e., mudflows). Factors to be considered in making such a determination should include but not be limited to: (i) the type and quality of soils, (ii) any evidence of ground water or surface water problems, (iii) the thickness and quality of any fill, (iv) the overall slope of the site, and (v) the weight that any proposed structure will impose on the slope;

(3) Require, if a proposed site and improvements are in a location that may have mudslide (i.e., mudflow) hazards, that (i) a site investigation and further review be made by persons qualified in geology and soils engineering, (ii) the proposed grading, excavations, new construction or substantial improvements are adequately designed and protected against mudslide (i.e., mudflow) damages, (iii) the proposed grading, excavations, new construction or substantial improvements do not aggravate the existing hazard by creating either on-site or off-site disturbances, and (iv) drainage, planting, watering, and maintenance be such as not to endanger slope stability.

(b) When the Administrator has delineated the areas having special mudslide (i.e., mudflow) hazards within a community, the community must:

(1) Meet the requirements of paragraph (a) of this section; and

(2) Adopt and enforce a grading ordinance in accordance with data supplied by the Administrator which (i) regulates the location of foundation systems and utility systems of new construction and substantial improvements, (ii) regulates the location, drainage and maintenance of all excavations, cuts and fills and planted slopes, (iii) provides special requirements for protective measures including but not necessarily limited to retaining walls, buttress fills, sub-drains, diverter terraces, benchings, etc., and (iv) requires engineering drawings and specifications to be submitted for all corrective measures, accompanied by supporting soils engineering and geology reports. Guidance may be obtained from the provisions of the 1970 edition and any subsequent edition thereto of the Uniform Building Code, sections 7001 through 7006, and 7008 through 7015. The Uniform Building Code is published by the International Conference of Building Officials, 50 South Los Robles, Pasadena, California 91101.

11. By revising § 1910.5 to read as follows:

**§ 1910.5 Required flood plain management regulations for flood-related erosion areas.**

The Administrator generally will provide the data upon which flood plain management regulations for flood-

related erosion-prone areas must be based. If the Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community may initially use geologic and other data obtained from other Federal or State agencies or from consulting services, pending receipt of data from the Administrator. However, when special hazard area designations have been furnished by the Administrator, they shall apply. In all cases the minimum requirements governing the adequacy of the flood plain management regulations for flood-related erosion-prone areas adopted by a particular community depend on the amount of technical data formally provided to the community by the Administrator. Minimum standards for communities are as follows:

(a) When the Administrator has not yet identified any area within the community as having special flood-related erosion hazards, the community must:

(1) Require the issuance of a permit for any grading, fill, dredging excavation or construction in the area of flood-related erosion hazard, as it is known to the community;

(2) Require review of each permit application to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause any changes in barrier beaches, sanddunes, natural drainage, channels, soil infiltration capacity, or otherwise aggravate the existing erosion hazard; and

(3) If a proposed improvement is found to be in the path of flood-related erosion or to increase the erosion hazard, require the improvement to be relocated or adequate protective measures to be taken which will not aggravate the existing erosion hazard.

(b) When the Administrator has delineated the areas having special flood-related erosion hazards within a community, the community must:

(1) Meet the requirements of paragraph (a) of this section; and

(2) Require a setback for all new development from the ocean, lake or riverfront, to create a safety buffer consisting of a natural vegetative or contour strip. This buffer will be designated by the Administrator according to the flood-related erosion hazard and erosion rate, in conjunction with the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic and climatic characteristics of the community's land. The buffer may be used for suitable open space purposes, such as for picnic, agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

12. § 1910.6 is completely revised to read as follows:

**§ 1910.6 Variances and exceptions because of local conditions.**

(a)(1) A community which has adopted flood plain management regulations in accordance with the standards of § 1910.3 may permit variances for particular structures from these standards



if (i) new structures are to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation, or (ii) a structure listed on the National Register of Historic Places or a State Inventory of Historic Places is to be restored or reconstructed.

(2) In all circumstances, variances may only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the variance issuance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) In all circumstances, variances may only be issued if (i) in the case of a community which exercises jurisdiction over the real property Title Recording Office pertaining to the recordation of information with respect to property which is to be the subject of a variance, the community shall require that a notice be recorded with the title records stating that the property is located in a flood-prone area, and (ii) in the case of a community which does not exercise such jurisdiction, the community shall require that any recipient of a variance execute an agreement whereby he will be bound to insert a notice on any future deed or other conveyance of the property that the property is located in a flood-prone area. The notice required by the community or inserted on a deed or other conveyance by a previous recipient of a variance shall contain a statement of the number of feet that the lowest non-floodproofed floor of the proposed structure is below the 100-year flood level and that actuarial flood insurance rates increase as the first floor elevation decreases.

(4) In all circumstances in which a community has issued a variance from the standards of § 1910.3 the community shall notify the Administrator of the issuance of the variance in writing, including within the notification the justification for the issuance. A copy of the notification should be sent to the State Coordinating Agency.

(b) (1) The requirement that each community must adopt and submit adequate flood plain management regulations as a condition of initial and continued flood insurance eligibility is statutory and cannot be waived, and such regulations shall be adopted by a community within the time periods specified in §§ 1910.3, 1910.4, or § 1910.5. However, certain exceptions from the standards contained in this subpart may be permitted with respect to a community where the Administrator recognizes that, in extraordinary circumstances, local conditions may render the adoption of certain standards the cause for severe hardship and gross inequity for a particular community. Consequently, a community may propose the adoption of flood

plain management regulations which vary from the standards set forth in §§ 1910.3, 1910.4, or § 1910.5, shall explain in writing to the Administrator the nature and extent of and the reasons for the exception request, and shall include supporting economic, topographic, hydrologic, and other scientific and technical data, and data with respect to the impact on public safety. After considering the data, the Administrator shall make a determination of whether a lesser standard is justified, shall issue a decision in writing, and if he concurs with the community's proposal, he shall inform the community of the modifications it may make in its flood plain management regulations.

(2) In accordance with paragraph (b) (1) of this section a community may propose the adoption of flood plain management regulations which permit basements and/or storm cellars below the 100-year flood level for residential structures located in areas of special flood hazards. If a community is granted such an exception, each individual basement and/or storm cellar may only be allowed upon conformance with the variance procedures set forth in subparagraphs (2), (3) and (4) of paragraph (a) of this section, and each variance issuance must include a statement that the community has been granted an exception under this section. The Administrator may grant an exception for basements which will be designed in accordance with the standards for completely floodproofed structures contained within section 210.2.1. FPI of the U.S. Army Corps of Engineers Publication entitled Floodproofing Regulations, June 1972, GPO: 19730-505-026 edition or any subsequent edition thereto. The Administrator may grant an exception for storm cellars (as defined in § 1909.1) after the community has demonstrated an historical need for storm cellars as a means of shelter against recorded occurrences of severe tornado or similar wind storm activities in the area. An exception for the allowance of storm cellars shall be based upon a community's acknowledgement that (i) all new storm cellars shall be limited to non-habitable uses, and such fact shall in each case be reflected in the county clerk's office or other standard recordation site; (ii) no Federal flood insurance shall be available for the contents of new storm cellars; (iii) all electrical, heating and other mechanical equipment shall be above the 100-year flood level for all new storm cellars; and (iv) all storm cellars shall be designed so as to assure the integrity of the main structure during time of flooding.

13. Section 1910.7 is added, and adopts the language of present § 1910.6 to read as follows:

§ 1910.7 Revisions of criteria for flood plain management regulations.

From time to time this Part 1910 may be revised as experience is acquired under the program and new information becomes available. Eligible communities will be given a reasonable time to revise

flood plain management regulations to comply with any such changes.

14. Subpart B is amended to read as follows:

**Subpart B—Additional Considerations in Managing Flood-Prone, Mudslide (i.e., Mudflow)-Prone, and Flood-Related Erosion-Prone Areas**

15. By revising § 1910.21 to read as follows:

§ 1910.21 Purpose of this subpart.

The purpose of this subpart is to encourage the formulation and adoption of overall comprehensive management plans for flood-prone, mudslide (i.e., mudflow)-prone and flood-related erosion-prone areas.

16. By revising § 1910.22 to read as follows:

§ 1910.22 State and local development goals.

State and local flood plain management regulations should contribute to social and economic development goals by:

(a) Diverting unwarranted and unwise development away from flood-prone, mudslide (i.e., mudflow)-prone, and flood-related erosion-prone areas;

(b) Encouraging flood, mudslide (i.e., mudflow) and flood-related erosion control and damage abatement efforts through public and private means;

(c) Deterring the unnecessary or improper installation of public utilities and public facilities in flood-prone, mudslide (i.e., mudflow)-prone and flood-related erosion-prone areas;

(d) Requiring construction and land use practices that will reduce flooding resulting from surface runoff, improper drainage, or inadequate storm sewers, and reduce the potential for mudslides (i.e., mudflow) flood-related erosion.

By revising § 1910.23, in part, to read as follows:

§ 1910.23 Planning considerations for flood-prone areas.

(a) The goals of the flood plain management regulations adopted by a community for flood-prone areas should be—

(1) To encourage only that development of flood-prone areas which (i) is appropriate in light of the probability of flood damage and the need to reduce flood losses, (ii) is an acceptable social and economic use of the land in relation to the hazards involved, and (iii) does not increase the danger to human life;

(2) To discourage all other development.

(b) In formulating community development goals and in adopting flood plain management regulations, each community should consider at least the following factors—

(1) Human Safety;

(2) Importance of diverting future development to areas not exposed to flooding;

(3) Possible reservation of flood-prone areas for open space purposes;

(4) Possible adverse effects of flood plain development on other flood-prone areas;

(5) Need to encourage floodproofing to reduce the flood hazard;

(6) Need for flood warning and emergency preparedness plans;

(7) Need to provide alternative vehicular access and escape routes to be utilized when normal routes are blocked or destroyed by flooding;

(8) Need to establish minimum floodproofing and access requirements for schools, hospitals, nursing homes, penal institutions, fire stations, police stations, communications centers, water and sewage pumping stations, and other public or quasi-public institutions already located in the flood-prone area to enable them to withstand flood damage, and to facilitate emergency operations;

(9) Need to improve local drainage and to control any increased runoff that might increase the danger of flooding elsewhere in the area;

(10) Need to coordinate local plans with neighboring flood plain area management and conservation programs;

(11) Possibilities of acquiring land or land development rights for public purposes consistent with effective flood plain management;

(12) State and local water pollution control requirements;

(13) For riverine areas, the need for requiring subdividers to furnish delineations of limits of floodways before approving a subdivision;

(14) For coastal areas, the need for preserving natural barriers to flooding, such as sand dunes, wetlands and vegetation;

(15) Need to prohibit any drainage, alteration or relocation of a watercourse, except as part of an overall drainage basin plan.

(16) Need to assure consistency between state, areawide and local comprehensive plans (particularly the land use element thereof) and flood plain area management and conservation programs.

By revising § 1910.24 to read as follows:

§ 1910.24 Planning considerations for mudslide (i.e., mudflow)-prone areas.

The planning process for areas identified in Part 1915 of this subchapter as containing mudslide (i.e., mudflow) areas having special mudslide hazards or which indicate in their applications for flood insurance coverage pursuant to § 1909.22 of this subchapter that they have a history of, or potential for, mudslide (i.e., mudflow) problems, should consider—

(a) The existence and extent of the hazard as evaluated by competent professionals;

(b) The potential effects of inappropriate hillside development, including (1) loss of life and personal injuries, and (2) public and private property losses, costs, liabilities, and exposures resulting

from potential mudslide (i.e., mudflow) hazards;

(c) The means of avoiding the hazard, including the (1) availability of land which is not mudslide (i.e., mudflow)-prone and the feasibility of developing such land instead of further encroaching upon mudslide (i.e., mudflow) areas, (2) possibility of public acquisition of land, easements, and development rights to assure the proper development of hillsides, mountainsides, cliffs, and palisades, and (3) advisability of preserving mudslide (i.e., mudflow) areas as open space;

(d) The means of adjusting to the hazard, including the (1) establishment by ordinance of site exploration, investigation, design, grading, construction, filling, compacting, foundation, sewerage, drainage, subdrainage, planting, inspection and maintenance standards and requirements that promote proper land use, and (2) provision for proper drainage and subdrainage on public property and the location of public utilities and service facilities, such as sewer, water, gas and electrical systems and streets in a manner designed to minimize exposure to mudslide (i.e., mudflow) hazards and prevent their aggravation;

(e) Coordination of land use, sewer, and drainage regulations and ordinances with fire prevention, flood plain, mudslide (i.e., mudflow), soil, land, and water regulation in neighboring areas;

(f) Planning subdivisions and other developments in such a manner as to avoid exposure to mudslide (i.e., mudflow) hazards and the control of public facility and utility extension to discourage inappropriate development;

(g) Public facility location and design requirements with higher site stability and access standards for schools, hospitals, nursing homes, correctional and other residential institutions, fire and police stations, communication centers, electric power transformers and substations, water and sewer pumping stations, and any other public or quasi-public institutions located in the mudslide (i.e., mudflow) area, to enable them to withstand mudslide (i.e., mudflow) damage and to facilitate emergency operations; and

(h) Provision for emergencies, including (1) warning, evacuation, abatement, and access procedures in the event of mudslide (i.e., mudflow), (2) enactment of public measures and initiation of private procedures to limit danger and damage from continued or future mudslides (i.e., mudflow), (3) fire prevention procedures in the event of the rupture of gas or electrical distribution systems by mudslides, (4) provisions to avoid contamination of water conduits or deterioration of slope stability by the rupture of such systems, (5) similar provisions for sewers which in the event of rupture pose both health and site stability hazards, and (6) provisions for alternative vehicular access and escape routes when normal routes are blocked or destroyed by mudslides (i.e., mudflow).

(i) The means for assuring consistency between state, areawide, and local comprehensive plans (particularly the land use element thereof) with the plans developed for mudslide (i.e., mudflow)-prone areas.

19. Section 1910.25 is revised completely to read as follows:

§ 1910.25 Planning considerations for flood-related erosion prone areas.

The planning process for communities identified in Part 1915 of this subchapter as containing flood-related erosion areas having special erosion hazards or which indicate in their applications for flood insurance coverage pursuant to § 1909.22 of this subchapter that they have a history of, or potential for, flood-related erosion problems, should consider:

(a) The importance of directing future development to areas not exposed to flood-related erosion;

(b) The possibility of reserving flood-related erosion-prone areas for open space purposes;

(c) The coordination of all planning for the flood-related erosion-prone areas with planning at the State level, and with planning at the level of neighboring communities;

(d) The possibility of preventive action in high-risk flood-related erosion zones where the recession rate has been established by professionals. The means available for preventive action include shore protection works, relocation of structures clearly in the path of flood-related erosion, acquisition of flood-related erosion-prone land by the community for public purposes, and others;

(e) The need to assure consistency of plans for flood-related erosion-prone areas with comprehensive plans at the state, areawide, and local levels (particularly the land use element thereof).

20. Section 1910.26 is a new section incorporating § 1910.25 with certain amendments, as follows:

§ 1910.26 State coordination.

(a) State participation in furthering the objectives of this part should include—

(1) Encouraging and assisting communities in qualifying for participation in the program;

(2) Enacting flood plain management regulations which regulate flood plains, mudslide (i.e., mudflow) areas and flood-related erosion areas;

(3) Enacting where necessary, legislation to enable counties and municipalities to regulate flood plain, mudslide (i.e., mudflow) areas and flood-related erosion area development;

(4) Designating an agency of the State government to be responsible for coordinating Federal, State, and local aspects of flood plain, mudslide (i.e., mudflow) area and Flood-Related erosion area management activities in the State;

(5) Assisting in the delineation of flood-related erosion area, mudslide (i.e., mudflow) areas, riverine floodways, and



coastal high hazard areas and providing all relevant technical data to the Administrator;

(6) Establishing minimum State flood plain, mudslide (i.e., mudflow) and flood-related erosion regulatory standards consistent with those established in this part;

(7) Guiding and assisting municipal and county public bodies and agencies in developing flood plain, mudslide (i.e., mudflow) and flood-related erosion area management plans and flood plain management regulations;

(8) Recommending priorities for rate-making studies among those communities of the State which qualify for such studies;

(9) Communicating flood plain, mudslide (i.e., mudflow) and flood-related erosion area information to local governments and to the general public;

(10) Participating in flood, mudslide (i.e., mudflow) and flood-related erosion warning and emergency preparedness programs;

(11) Assisting communities in disseminating information on minimum elevations for structures permitted in flood plain areas having special hazards, and in disseminating other information relating to mudslide (i.e., mudflow) and flood-related erosion areas having special hazards;

(12) Advising public and private agencies (particularly those whose activities or projects might obstruct drainage or the flow of rivers or streams or increase slope instability) on the avoidance of unnecessary aggravation of flood, mudslide (i.e., mudflow) and flood-related erosion hazards;

(13) Requiring that proposed uses of flood plain, mudslide (i.e., mudflow) and flood-related erosion areas conform to standards established by State environmental and water pollution control agencies to assure that proper safeguards are being provided to prevent pollution;

(14) Providing local communities with information on the program, with particular emphasis on the coordination of State and Federal requirements pertaining to the management of flood-prone, mudslide (i.e., mudflow)-prone, and flood-related erosion-prone areas;

(15) Assuring coordination and consistency of flood plain management and planning with comprehensive planning at the state, areawide and local levels (particularly the land use element thereof).

(b) For States whose flood plain, mudslide (i.e., mudflow) area and flood-related erosion area management program substantially encompass the activities described in paragraph (a) of this section, the Administrator will—

(1) Give special consideration to State priority recommendations before selecting communities for ratemaking studies from the register described in § 1909.23 of this subchapter;

(2) Seek State approval of local flood plain management regulations before finally accepting such regulations as meeting the requirements of this part.

21. Section 1910.27 is added to incorporate present § 1910.26.

#### § 1910.27 Local coordination.

(a) Local flood plain, mudslide (i.e., mudflow) and flood-related erosion area management, flood forecasting, flood, mudslide and erosion emergency preparedness, and flood, mudslide and erosion control and damage abatement programs should be coordinated with relevant Federal, State, and regional programs.

(b) A locality adopting flood plain management regulations pursuant to these criteria should arrange for coordination with the appropriate State agency of its program of information and education designed to promote public acceptance and use of sound flood plain, mudslide (i.e., mudflow) and flood-related erosion area management practices.

### PART 1911—INSURANCE COVERAGE AND RATES

#### § 1911.1 [Reserved]

22. Section 1911.1 is deleted and reserved.

23. Section 1911.4 is amended, in part, to read as follows:

#### § 1911.4 Limitations on coverage.

(b) Insurance under the program is available only for loss due to flood, as defined in § 1909 of this subchapter. The policy covers damage from a general condition of flooding in the area which results from other than natural causes, such as the breaking of a dam, but does not cover damage which results from causes on the insured's own property or within his control or from any condition which causes damage, which condition is substantially confined to the insured premises or properties immediately adjacent thereto.

(c) The policy does not cover losses from rain, snow, sleet, hail, or water spray. It covers losses from freezing or thawing, or from the pressure of weight of ice and water, only where they occur simultaneously with and as a part of flood damage. It covers mudslide but does not cover damage from earthquakes or similar earth movements which are volcanic or tectonic in origin. The policy does not cover normal erosion, claims resulting from losses already in progress at the time of application for coverage, or losses caused by lands slippage rather than mudslide (see definition of mudslide/mudflow in § 1909.1 of this subchapter). With certain exceptions, seepage and sewer backup losses are not covered unless a general and temporary condition of flooding exists. Abnormal erosion caused by high water levels accompanied by violent wave action along a lake or other body of water is considered a flood (see definition of erosion in § 1909.1 of this subchapter). However, there is no coverage where normal, continuous wave action, accompanied by ordinary erosion or the gradual and anticipated wearing away of the land is the proximate cause of property damage.

(d) The policy protects against loss to contents only at the location described in the application, except that contents nec-

essarily removed from the premises for preservation from a flood are protected against loss or damage from flood at the new location pro rata for a period of 30 days.

24. Section 1911.5 is amended, in part, to read as follows:

#### § 1911.5 Special terms and conditions.

(a) No flood insurance is available for properties declared by a duly constituted State or local zoning or other authority to be in violation of any flood plain, mudslide (i.e., mudflow) or flood-related erosion area management or control law, regulation, or ordinance.

(e) Payment for a loss under the policy does not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate flood occurrence, but all losses arising out of a continuous or protracted occurrence are deemed to have arisen out of a single occurrence.

(g) The following are not insurable under the program: land, gas or liquid storage tanks, fences, retaining walls, outdoor swimming pools, bulkheads, wharves, piers, bridges, roads, docks, personal property in the open, accounts, bills, currency, deeds, evidences of debt, money, securities, bullion, manuscripts or other valuable papers or records, and numismatic or philatelic property.

(h) The contents coverage for premises used for residential purposes excludes birds, fish, animals, most motor vehicles, boats, trailers, business property, and certain other types of property. It provides only limited amounts of protection for certain other items, such as paintings and jewelry.

### PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

25. Section 1914.1 is amended to read as follows:

#### § 1914.1 Purpose of part.

(a) 42 U.S.C. 4101 and 4014 contemplate that flood insurance under the regular program will be offered in communities only after the Administrator has identified the areas of special flood, mudslide (i.e., mudflow) and flood-related erosion hazards within the community under Part 1915 of this subchapter and has completed a rate-making study for the applicant community. A period of 15 years ending July 31, 1983, was allotted for this purpose. The priorities for conducting such ratemaking studies are set forth in §§ 1909.22 and 1910.26 of this subchapter. A purpose of this part is periodically to list those communities in which ratemaking studies have been completed, actuarial rates have been established, and the sale of insurance under the regular program has been authorized.



(b) U.S.C. 4054 authorizes an emergency implementation of the National Flood Insurance Program whereby, for a period ending on December 31, 1975, the Administrator may make subsidized coverage available to eligible communities prior to the completion of ratemaking studies for such areas. This part also describes procedures under the emergency program and lists communities which become eligible under that program.

26. Section 1914.2 is amended in part, to read as follows:

§ 1914.2 Flood insurance maps.

(a) The following maps may be prepared for use by the Administrator and the eligible community in connection with the sale of flood insurance:

(1) [Reserved]

(2) *Flood Insurance Rate Map (FIRM)*. This map is prepared after the ratemaking study for the community has been completed and actuarial rates have been established, and enables the Administrator to authorize the sale of flood insurance under the regular program. It indicates the actuarial rate zones applicable to the community. The symbols used to designate these zones are as follows:

Zone symbol:	Category
A -----	Area of special flood hazards and without base flood elevations determined.
A1-A30 -----	Area of special flood hazards with base flood elevations. Zones are assigned according to flood hazard factors.
AO -----	Area of special flood hazards that have shallow base flood elevation depths and/or unpredictable flow paths.
V (V1-V30) --	Area of special flood hazards, with velocity, that are inundated by tidal floods. Zones are assigned according to flood hazard factors.
B -----	Area of moderate flood hazards.
C -----	Area of minimal hazards.
D -----	Area of undetermined but possible, flood hazards.
M -----	Area of special mudslide (i.e., mudflow) hazards.
N -----	Area of moderate mudslide (i.e., mudflow) hazards.
P -----	Area of undetermined, but possible, mudslide hazards.
E -----	Area of special flood-related erosion hazards.

Areas identified as subject to more than one hazard; i.e., flood, mudslide (i.e., mudflow), flood-related erosion, will be designated by use of the proper symbols in combination. Areas subject to only one hazard or where more than one hazard is minimal will be identified by only one symbol.

(3) *Flood Hazard Boundary Map (FHBM)*. This map is issued and approved by the Administrator for use in determining whether individual properties are within or without the flood plain

area having special flood hazards, the mudslide (i.e., mudflow) area having special mudslide hazards or the flood-related erosion area having special erosion hazards. Notice of the issuance or approval of new Flood Hazard Boundary Maps is given in Part 1915 of this subchapter.

(b) The Flood Hazard Boundary Map (FHBM) and the Flood Insurance Rate Map (FIRM) shall be maintained for public inspection at the following locations:

- (5) The office of the flood insurance servicing company for the State.
- (6) The H.U.D. Regional Office.

27. By revising § 1914.3 to read as follows:

§ 1914.3 Procedures under the emergency and regular programs.

(a) In order to expedite a community's qualification for flood insurance under the emergency program, the Administrator may authorize the sale of such insurance without first designating either the entire community or any part thereof as a flood plain area having special flood hazards, a mudslide (i.e., mudflow) area having special mudslide hazards and/or a flood-related erosion area having special erosion hazards, provided the community has previously adopted flood plain management regulations meeting the requirements of § 1910.3(a), § 1910.4(a) or § 1910.5(a) of this subchapter. When the Administrator has obtained sufficient technical information to delineate the special flood, mudslide (i.e., mudflow) or flood-related erosion hazard areas with reasonable accuracy, he shall delineate the tentative boundaries of the specific areas having special flood, mudslide (i.e., mudflow) or erosion hazards on a Flood Hazard Boundary Map (FHBM).

(b) After the effective date of the Flood Insurance Rate Map (FIRM), or December 31, 1974, whichever is later, flood insurance will be available at chargeable rates for newly constructed or substantially improved properties only if they are located outside of the areas then delineated as having special flood, mudslide (i.e., mudflow) or flood-related erosion hazards. Newly constructed or substantially improved properties located within the areas having special flood, mudslide (i.e., mudflow) or flood-related erosion hazards delineated on the Flood Insurance Rate Map (FIRM) will be eligible for flood insurance coverage only at actuarial rates.

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

28. By revising § 1915.1 to read as follows:

§ 1915.1 Purpose of this part.

Section 42 U.S.C. 4101 authorizes the Administrator to identify and publish information with respect to all flood plain areas having special flood hazards, mudslide (i.e., mudflow) areas having

special mudslide hazards and flood-related erosion areas having special erosion hazards. The purpose of this part is to list those communities and the areas thereof which have been identified by the Administrator as having such special flood, mudslide (i.e., mudflow) or flood-related erosion hazards. Additional communities will be added to this list from time to time as the necessary information becomes available.

§ 1915.2 [Reserved]

29. Section 1915.2 is deleted and revised.

30. By revising § 1915.3 to read as follows:

§ 1915.3 List of communities with special hazards areas.

NOTE.—For the list of communities and the designated flood, mudslide (i.e., mudflow) or flood-related erosion hazard areas issued under this section and not carried in the Code of Federal Regulations, see the List of CFR Sections Affected.

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

31. Section 1917.3 is amended, in part, to read as follows:

§ 1917.3 Establishment and maintenance of a flood elevation determination docket (FEDD).

(j) Copies of any flood plain management regulations in effect in the community at the time of the proposed flood elevation determination;

32. Section 1917.11 is amended to read as follows:

§ 1917.11 Rates during pendency of final determination.

Until such time as a final determination is made and proper notice is given, no person within an eligible community shall be denied the right to purchase flood insurance at the subsidized rate. After the final determination and upon the effective date of a Flood Insurance Rate Map, or December 31, 1974, whichever is later, actuarial rates will be charged for new construction and substantial improvements of existing structures located in special flood hazard areas. The effective date of a Flood Insurance Rate Map is six months after the final flood elevation determination as published in the FEDERAL REGISTER.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974)

Issued: March 20, 1975.

J. ROBERT HUNTER,  
Acting Federal  
Insurance Administrator.

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