

**§§ 1980.49–1980.59**

**7 CFR Ch. XVIII (1–1–01 Edition)**

the National Earthquake Hazard Reduction Program's (NEHRP) Recommended Provisions for the Development of Seismic Regulations for New Building (NEHRP Provisions):

(1) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(2) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code; or

(3) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(c) The date, signature, and seal of a registered architect or engineer and the identification and date of the model building code on the plans and specifications will be evidence of compliance with the seismic requirements of the appropriate building code.

[61 FR 65157, Dec. 11, 1996]

**§§ 1980.49–1980.59 [Reserved]**

**§ 1980.60 Conditions precedent to issuance of the Loan Note Guarantee.**

(a) *Lender certification.* For Farmer Programs loans, Form FmHA or its successor agency under Public Law 103–354 449–34 or Form FmHA or its successor agency under Public Law 103–354 1980–27 will not be issued until the lender certifies to the applicable conditions below by executing Form FmHA or its successor agency under Public Law 103–354 1980–22, “Lender Certification.” Form 449–34 will not be issued until the lender certifies that:

(1) No major changes have been made in the lender's loan conditions and requirements since the issuance of the Conditional Commitment for Guarantee except those approved in the interim by the Agency in writing.

(2) All planned property acquisition has been completed and all development has been substantially completed in accordance with plans and specifications. All costs have not exceeded the amounts approved by the lender and the Agency.

(3) Required hazard, flood, or prevention insurance, worker's compensation and personal life insurance when required is in effect.

(4) Truth in lending requirements have been met.

(5) All equal employment opportunity and nondiscrimination requirements have been or will be met at the appropriate time.

(6) The loan has been properly closed, and the required security instruments have been obtained, or will be obtained on any after acquired property that cannot be covered initially under State law.

(7) The borrower has marketable title to the collateral then owned by borrower, subject to the instrument securing the loan to be guaranteed and subject to any other exceptions approved in writing by FmHA or its successor agency under Public Law 103–354.

(8) When required, the entire amount of loan for working capital has been disbursed except in cases where the State Director has approved disbursement over an extended time.

(9) When required personal, partnership, or corporate guarantees have been obtained. Copies of the guarantees will be provided to FmHA or its successor agency under Public Law 103–354.

(10) All other requirements of the Conditional Commitment for Guarantee have been met.

(11) Lien priorities are consistent with requirements of the Conditional Commitment for Guarantee.

(12) The loan proceeds have been disbursed for purposes and in amounts consistent with the Conditional Commitment for Guarantee and as specified on Form FmHA or its successor agency under Public Law 103–354 449–1, “Application for Loan and Guarantee,” or Form FmHA or its successor agency under Public Law 103–354 1980–10, “Application for Loan and Guarantee” (Community Programs). A copy of a detailed loan settlement statement of the lender will be attached to support this certification.

(13) Equity requirements have been met. A reconciliation of the borrower's net worth from the latest financial statement to the date of loan closing will be provided with this certification.

(14) There has been no adverse change(s) in the borrower's financial condition nor any other adverse change in the borrower during the period of time from FmHA or its successor agency under Public Law 103–354's issuance

of the Conditional Commitment for Guarantee to issuance of the Loan Note Guarantee or from the time of FmHA or its successor agency under Public Law 103-354's issuance of the Conditional Commitment for Contract of Guarantee to the issuance of the Contract of Guarantee. The lender's certification must address all adverse changes of the borrower and be supported by financial statements of the borrower and its guarantors not more than 60 days old at time of certification. For purposes of this paragraph, the term "borrower" includes additionally any parent, affiliate, or subsidiary of the borrower.

(b) *Inspections.* The lender will notify FmHA or its successor agency under Public Law 103-354 of any scheduled field inspections during construction and after issuance of the Loan Note Guarantee. FmHA or its successor agency under Public Law 103-354 may attend such field inspections. Any inspections or review conducted by FmHA or its successor agency under Public Law 103-354, including those with the lender, are for the benefit of FmHA or its successor agency under Public Law 103-354 only and not for other parties of interest. FmHA or its successor agency under Public Law 103-354 inspections do not relieve any parties of interest of their responsibilities to conduct necessary inspections, nor can these parties rely on FmHA or its successor agency under Public Law 103-354's inspections in any manner whatsoever.

(c) *Execution of form.* The lender has executed and delivered to FmHA or its successor agency under Public Law 103-354 Form FmHA or its successor agency under Public Law 103-354 449-35.

(d) *Plans for marketing.* The lender advises FmHA or its successor agency under Public Law 103-354 of its plans to sell or assign any part of the loan as provided in Form FmHA or its successor agency under Public Law 103-354 449-35.

(e) *Additional requirements.* See also appropriate subpart for additional requirements.

[48 FR 30947, July 6, 1983, as amended at 49 FR 28039, July 10, 1984; 50 FR 39885, Sept. 30, 1985; 51 FR 6710, Feb. 25, 1986; 55 FR 11134, Mar. 27, 1990; 58 FR 34307, June 24, 1993; 61 FR 67633, Dec. 23, 1996; 64 FR 7402, Feb. 12, 1999]

**§ 1980.61 Issuance of Lender's Agreement, Loan Note Guarantee, and Assignment Guarantee Agreement.**

(a) *Lender's Agreement.* If FmHA or its successor agency under Public Law 103-354 finds that all requirements have been met:

(1) The lender and FmHA or its successor agency under Public Law 103-354 will execute Form FmHA or its successor agency under Public Law 103-354 449-35. The original will be delivered to FmHA or its successor agency under Public Law 103-354 and a signed duplicate original will be retained by the lender. There will be a Form FmHA or its successor agency under Public Law 103-354 449-35 executed for all loans and lines of credit guaranteed by FmHA or its successor agency under Public Law 103-354.

(2) In all cases, the lender's agreement will be executed no later than the time the Loan Note Guarantee is signed.

(b) *Loan Note Guarantee.* (1) Upon receipt of the Form FmHA or its successor agency under Public Law 103-354 449-35, and after all requirements have been met, FmHA or its successor agency under Public Law 103-354 will execute Form FmHA or its successor agency under Public Law 103-354 449-34. All original(s) will be provided to the lender and attached to the note(s). A conformed copy with copies of notes attached will be retained by FmHA or its successor agency under Public Law 103-354.

(2) In the event a lender has made a loan guaranteed by FmHA or its successor agency under Public Law 103-354 under previous regulations and has obtained a Form FmHA or its successor agency under Public Law 103-354 449-17, "Contract of Guarantee," the lender