

building and for any machinery, equipment, fixtures and furnishings contained or to be contained in such buildings.

(c) *Community means* any state or political subdivision thereof, such as county, parish, township, city or other local government which has zoning and building code jurisdiction over a particular area having special flood hazards.

(d) *Eligible community means* a community in which the Administrator of FIA has authorized the sale of flood insurance under the program.

(e) *Designated special flood or mudslide prone area means* those areas in a community subject to flood or mudslide which have been identified by flood hazard boundary maps or those areas not identified by maps but where, due to emergency, the FIA Administrator has authorized the sale of flood insurance.

(f) *Flood means* a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers, or other inland water, 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 water exceeding anticipated cyclical levels, or abnormally high tidal water or rising coastal waters resulting from severe storms, hurricanes, or tidal waves resulting from volcano eruptions or earthquakes.

(g) *Mudslide or mudflow means* a major occurrence involving the appearance of a large river or flow of "liquid mud" down a hillside, usually as a result of earlier brushfires followed by heavy rains over a widespread area.

(h) *Flood insurance means* insurance coverage for floods and/or mudslides under the program or otherwise acceptable to FIA.

(i) *Building means* any walled and roofed structure, other than a gas or liquid tank, that is principally above ground and affixed to a permanent site. Residential and most types of industrial, commercial, and agricultural buildings, such as lumber sheds, machinery storage sheds, grain storage bins, and silos, are included in this definition.

(j) *Substantial improvement means* any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the actual cash value of the structure either before the improvement is started or, if the structure has been damaged and is being restored, before the damage occurred.

#### § 1806.24 Eligibility.

In addition to an applicant meeting the requirements for the type of financial assistance requested, the following requirements for eligibility of applicants for financial assistance for acquisition and construction purposes in designated special flood and mudslide prone areas must be met:

(a) If flood insurance is available, to be eligible after March 1, 1974, the applicant must have purchased a flood insurance policy at the time the loan or grant is closed.

(b) Applicants will not receive financial assistance in those communities that have been notified as having special flood and mudslide prone areas and where flood insurance is not available within 1 year after such notification or by July 1, 1975, whichever is later.

#### § 1806.25 Conditions.

FmHA or its successor agency under Public Law 103-354 financial assistance may be extended to eligible applicants meeting the eligibility requirements of § 1806.24 of this subpart, provided the following conditions are also met:

(a) *Dwelling and multi-unit housing facilities.* (1) If the financial assistance is to buy a dwelling or multi-unit housing facility:

(i) The first floor elevation of the habitable space of the dwelling or housing unit must be above the 100-year flood level.

(ii) The housing must be served by public utilities and facilities, such as sewer, gas, electrical and water systems that are located and constructed to minimize or eliminate flood damage, or have an onsite water supply system and waste disposal system located so as to avoid impairment of such systems and contamination from the waste disposal system to the water supply system from flooding.

**§ 1806.26**

**7 CFR Ch. XVIII (1-1-03 Edition)**

(2) If the financial assistance is to build or provide substantial improvement, the requirements of paragraph (a)(1) of this section must be met and all construction must meet requirements of the applicable development standards, and:

(i) A building permit must be issued by the appropriate governing officials having jurisdiction in the area and compliance must be had with the zoning code or other established legal requirements of the area for reducing or eliminating flood or mudslide damage.

(ii) The structure must be designed and anchored to prevent flotation, collapse or lateral movement of the structure.

(iii) Construction materials and utility equipment that are resistant to flood damage must be used.

(iv) Construction methods and practices that will minimize flood damage must be followed.

(3) If the financial assistance is to make minor repairs, the conditions of paragraphs (a)(1) (i) and (ii) and (2) (i), (ii) and (iii) of this section must be met or the building must have existed on the site prior to the date the area was identified as having special flood or mudslide hazards and the loan approval official must determine that the dwelling is suitable as a residence.

(4) When applications for financial assistance are received in areas identified as having special flood and mudslide hazards, the loan approval official will consider the expected severity and frequency of floods and mudslides in determining whether any housing loans should be made in the area. He should be sure, if loans are made, that the objectives of the loans can be accomplished and the Government's financial interest will be adequately protected.

(b) *Nonresidential buildings.* Construction plans and specifications for new buildings or improvements to existing buildings must comply with flood plain area management or control laws, regulations or ordinances.

(c) *Flood insurance coverage.* (1) Any property on which flood insurance is required must be covered by such insurance during its anticipated economic and useful life in an amount at least equal to its development or replacement cost (except estimated land

cost), or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Program, whichever is less. However, if the financial assistance provided is in the form of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan.

(2) The contents of a building must be insured separately from a building but coverage cannot be written on the contents of a three-walled machinery shed or similar type open building.

(3) Flood insurance shall not be required on any state owned property that is covered under an adequate state policy of self-insurance satisfactory to the Secretary of HUD, who will publish a list of states with such policies.

(4) It will be emphasized that under the terms of the security instrument it is the borrower's responsibility to provide and maintain proper flood insurance coverage. If flood insurance is not provided on any property for which it is required, the flood insurance premium will be paid to protect the Government's security interest. For borrowers required to escrow for flood insurance, payment of the premium will be handled in accordance with § 1806.28 of this subpart. Existing borrowers required to escrow will be notified by letter at least 90 days prior to initiating escrowing for flood insurance. If FmHA or its successor agency under Public Law 103-354 pays the flood insurance premium for borrowers not required to escrow, the cost will be charged to the borrower's account as a recoverable cost. Failure to provide flood insurance is a nonmonetary default and will be a consideration in determining if the loan is to be continued.

[39 FR 17093, May 13, 1974, as amended at 52 FR 8002, Mar. 13, 1987; 56 FR 6945, Feb. 21, 1991]

**§ 1806.26 Coverage and premium rates.**

Exhibit A sets forth limits of coverage and chargeable premium rates under the program. Insurance policies under the program can be obtained from any licensed property insurance agent or broker serving the eligible community or from the National Flood