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FLOOD
PLAIN
MANAGEMENT

FLOOD

INSURANCE

Revised July 1972

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DEPARTMENT OF

Division of



MINNESOTA

NATURAL RESOURCES

Waters, Soils and Minerals

P/246.22

PREFACE

Flood insurance is but one of several measures a locality should consider in developing a comprehensive flood plain management program to reduce losses from the recurrence of floods. Other measures include zoning ordinances, subdivision regulations, building codes, health regulations, development policies, open space programs, and flood control works. It is only after evaluating these elements in light of local problems and needs that the most effective combination of measures can be determined.

Because land-use controls are generally not retroactive, such measures are usually not effective in dealing with any existing flood plain developments which are subject to damages from flood waters. Where it is not practical or feasible to remove or protect these developments from flood hazards, flood insurance may be used to indemnify property owners from future flood losses. Flood insurance may also be used to afford the owner protection against losses from the occurrence of large flood events that exceed local flood protective works or such individual protective measures as elevation of developments above reasonably expected flood levels, structural floodproofing, etc.

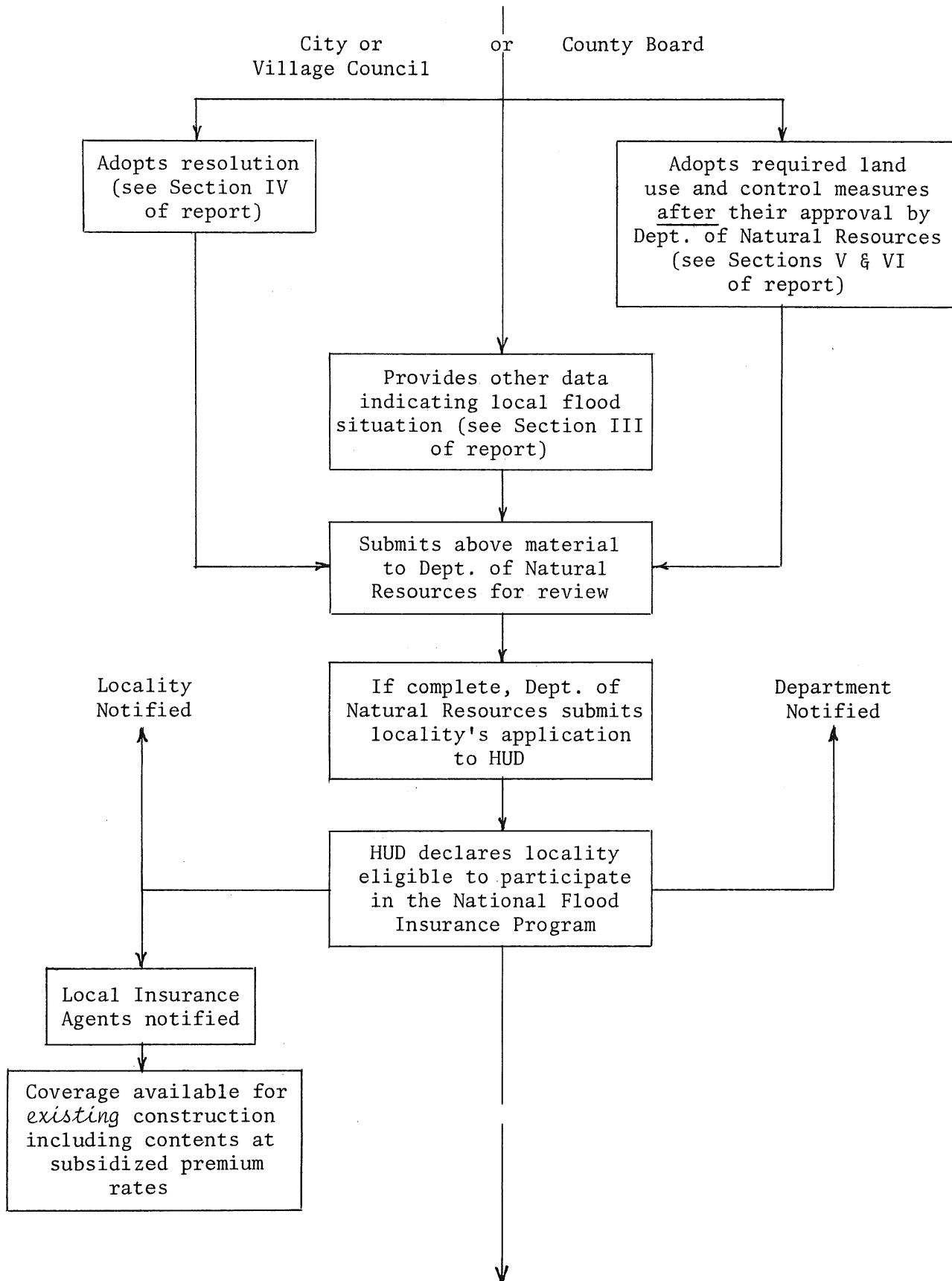
The purpose of this report is to create a better understanding of the National Flood Insurance Program, allow local governmental officials to determine the suitability of flood insurance as one element that may be used to reduce recurrent flood losses, and to assist the locality in becoming eligible for flood insurance.

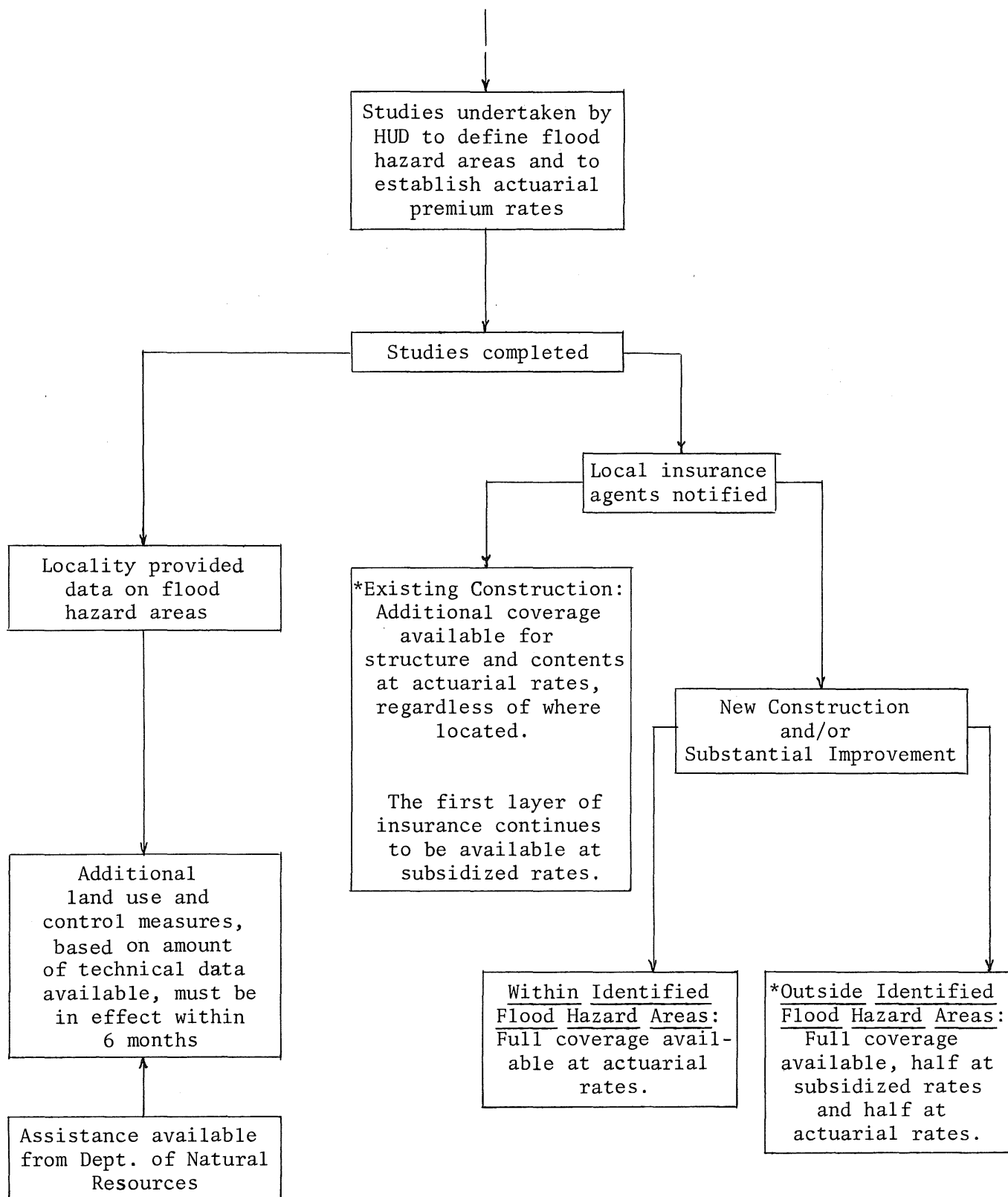
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Section I.

FLOW CHART OUTLINING STEPS FOR
MAKING FLOOD INSURANCE AVAILABLE





NOTE: When actuarial rates are less than subsidized rates, property owner has option of choosing the lower rates for all coverage.

Section II.

SUMMARY OF THE NATIONAL FLOOD INSURANCE PROGRAM

Coverage of the Insurance Act

Under the National Flood Insurance Act of 1968 (Public Law 90-448) the Secretary of the U. S. Department of Housing and Urban Development (HUD) is authorized to establish and carry out a national flood insurance program. The program was established to make insurance available for losses due to inundation by flood waters from the overflow of streams, rivers, or other inland waters or from unusual and rapid accumulation of runoff of surface waters from any source, and inundation from mud slides which are caused by accumulations of water on or under the ground. Coverage does not include water damage that results from causes on the insured's own property or within his control or from a condition that does not cause general flooding in the area. Coverage also does not include losses from rain, snow, sleet, or hail. It covers losses from freezing or thawing or from the pressure or weight of ice and water only where such conditions occur simultaneously with and as a part of flood damage. Insurance coverage under the program is available for all properties used for residential, business, religious and agricultural purposes, properties occupied by nonprofit organizations, and properties owned by state or local governments or their agencies. The program is being implemented through a cooperative effort of the federal government and the private insurance industry.

Objectives of the Program

The basic objectives of the program are to provide flood insurance at subsidized rates on existing structures and their contents (existing premium rates are contained in the enclosed "HUD News"), to provide coverage at actuarial rates for future properties located in flood prone areas, and to promote appropriate land use in areas subject to flooding in order to reduce flood hazards. To achieve the latter objective, localities are encouraged to adopt land use regulations to 1) constrict the development of land exposed to flood damage; 2) guide the development of proposed future construction, where practical, away from locations that are threatened by floods; 3) assist in reducing damage caused by floods; and 4) provide for proper land use and land management in flood prone areas by recognizing the degree of flood hazard. (*Minnesota Statutes, C. 104, requires local governmental units -- cities, villages, and counties -- to adopt, enforce, and administer sound programs to guide proper development of flood prone areas to reduce private and public economic loss caused by flooding.*)

How Does Your Locality Qualify?

To qualify for flood insurance, a local governmental unit must submit to HUD an expression of interest in being declared eligible for such insurance, adopt or have in force land use and control measures for flood hazard areas that are consistent with HUD criteria (These measures are summarized in Part A of Section V of this report and are outlined in more detail in § 1910.3 of the HUD rules and regulations contained in Section VIII of this report. Sample provisions designed to meet these measures are contained in Section VI of this

report.), and provide other information indicating the nature of the local flood problem and the need for such insurance.

A checklist describing in detail the data required for submitting an application for flood insurance is contained in Section III of this report.

Eligibility for Coverage

Under the Act establishing the national flood insurance program a locality can not qualify for such insurance until flood hazard areas have been determined and premium rates established. A minimum period of from six to nine months is usually needed to complete the above procedures.

However, following flood and hurricane disasters in 1969, a 2-year emergency program was authorized as an amendment to the 1968 Act. This emergency program was extended by Congress for an additional 2 years and is due to expire December 31, 1973. The emergency program is intended primarily as an *interim* program to provide earlier coverage for potential flood victims. Under this program a locality can usually become eligible within three to four weeks instead of the much longer period of time required under the regular program.

Sale of Insurance

After a locality becomes eligible, insurance at *subsidized rates* can be sold on *existing* construction to property owners by private insurance agents and brokers through the National Flood Insurers Association. Insurance at *actuarial* rates can be written on new construction or on properties which are substantially improved after the date the locality becomes eligible, once these rates are established within the locality. Until a local governmental unit

has qualified for flood insurance, citizens within the locality cannot purchase flood insurance upon their own initiative.

Conditions for Retention of Insurance

As long as a locality has in effect and enforces land use and control measures for flood hazard areas that meet applicable HUD criteria it can retain its flood insurance eligibility. The measures that must be in effect depend upon the amount of technical data that have been provided to the locality and are summarized in Section V of this report.

Program Implementation in Minnesota

The localities in Minnesota that have been declared eligible to date are contained in Section VII. Applications for flood insurance should be submitted to HUD through the Minnesota Department of Natural Resources. The Department will check to assure that the application is complete and will forward the locality's application to HUD for processing.

Further inquiries about flood insurance and applications may be directed to:

Department of Natural Resources
Division of Waters, Soils and Minerals
Centennial Office Building
St. Paul, Minnesota 55155

Telephone 612 - 296-2965

Section III.

CHECKLIST OF ITEMS TO BE SUBMITTED BY MINNESOTA COMMUNITIES AND COUNTIES TO HUD WHEN APPLYING FOR FLOOD INSURANCE

- I. In order to qualify for flood insurance a locality must apply for eligibility for the entire area within its jurisdiction, and must submit:
 - a) A copy of the land use and control measures such as zoning ordinances, building codes, subdivision regulations, health codes, etc. the locality has adopted for flood prone areas in order to meet the requirements of Section 1910.3(a) of HUD regulations. (These requirements are summarized in Section V(A) of this report. Sample provisions which meet these requirements are contained in Section VI of this report.)
 - b) A large-scale map of the entire area under the locality's jurisdiction, identifying local flood plain areas and showing the names of rivers, lakes and similar bodies of water that cause floods. This may be an informal freehand delineation.
 - c) A brief summary of the locality's history of flooding and the characteristics of its flood plain areas, if available, including the locations of any known high water marks. (A current flood plain information report prepared by a public or private agency may satisfy this requirement if already available.)
 - d) A clean map of the locality, preferably in black and white, clearly delineating its corporate limits, which can be reproduced for publication. If the best available map is copyrighted, a letter of release must be obtained and submitted. (Note: This map is needed in addition to the map mentioned in (b) above.)

- e) If a county is making application, a list of the incorporated communities within the county. (Incorporated communities are not eligible for flood insurance resulting from the county's eligibility.)
- f) Estimates relating to the flood prone area concerning:
 - 1) Population
 - 2) Number of one to four family residences
 - 3) Number of small business structures
 - 4) Number of other structures
- g) Address of a local repository, such as a municipal building or county court house, where the flood insurance and flood hazard maps will be made available for public inspection.

II. Assurances of future compliance. Submit a resolution containing, at a minimum, the assurances listed below. These items are taken from Section 1909.22 of HUD regulations (see Section VIII of this report).

NOTE: Adoption of the sample resolution contained in Section IV of this report will satisfy requirements a-e below.

- a) Indicate a local need for flood insurance and an explicit desire to participate in the Federal Flood Insurance Program.
- b) Cite State and local statutes and ordinances authorizing actions regulating land use and copies of the local laws and regulations cited.
- c) Recognize and duly evaluate flood hazards in all official actions relative to land use in the areas having special flood hazards and to take such other official action as may be reasonably necessary to carry out the objectives of the program.

d) Designate an official, office or agency to:

- 1) Delineate or assist the Federal Insurance Administrator (HUD), at his request, in delineating the limits of the areas having special flood hazards on available local maps of sufficient scale to identify the location of building sites.
- 2) Provide such information as the Administrator may request concerning present uses and occupancy of the flood plain area.
- 3) Maintain for public inspection and furnish upon request, with respect to each area having special flood hazards, information on elevations (in relation to mean sea level) of the lowest floors of all new or substantially improved structures.
- 4) Cooperate with Federal, State, and local agencies and private firms which undertake to study, survey, map, and identify flood plain areas and cooperate with neighboring communities with respect to management of adjoining flood plain areas in order to prevent aggravation of existing hazards.
- 5) Submit on each anniversary date of the locality'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 management measures.

e) Appoint or designate an agency or official with the overall responsibility, authority, and means to implement all the commitments made in the application.

III. A locality's application may be submitted directly to the Federal Insurance Administrator, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D. C. 20410. However, it is desirable that the application be submitted through the Minnesota Department of Natural Resources. The Department will check to assure that the application is complete, and if any items are missing, will immediately notify the locality. In this manner the locality often can become eligible at an earlier date.

Section IV.

SUGGESTED RESOLUTION TO BE USED WHEN APPLYING FOR FLOOD INSURANCE IN MINNESOTA

WHEREAS, certain areas of the (COUNTY)(COMMUNITY) are subject to periodic flooding from the (STREAM(s)) causing serious damages to properties within these areas; and

WHEREAS, relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968 as amended; and

WHEREAS, it is the intent of this (BOARD, COUNCIL, ETC.) to comply with land use and management criteria regulations as required in said act; and

WHEREAS, it is also the intent of this (BOARD, COUNCIL, ETC.) to recognize and duly evaluate flood hazards in all official actions relating to land use in the flood plain areas having special flood hazards; and

WHEREAS, the Code Citation(s) of State enabling legislation and of any resulting local ordinance that authorizes this (COUNTY)(COMMUNITY) to adopt land use and control measures are: Minn. Statutes Sections 394.01 et seq and 505.09 to 505.13 (counties); Minn. Statutes 462.351 - 462.363 (cities, villages, boroughs); Minn. Statutes, C. 104 (Flood Plain Management Act); etc.

NOW, THEREFORE, BE IT RESOLVED, that this (BOARD, COUNCIL, ETC.) hereby assures the Federal Insurance Administration that it takes the following legislative action:

(1) Appoints (official, office or agency) with the responsibility, authority and means to:

(a) Delineate or assist the Administrator, at his request, in delineating the limits of the areas having special flood hazards on available local maps of sufficient scale to identify the location of building sites.

(b) Provide such information as the Administrator may request concerning present uses and occupancy of the flood plain area.

(c) Maintain for public inspection and furnishing upon request, with respect to each area having special flood hazards, information on elevations (in relation to mean sea level) of the lowest floors of all new or substantially improved structures; and

(d) Cooperate with Federal, State, and local agencies and private firms which undertake to study, survey, map, and identify flood plain areas, and cooperate with neighboring communities with respect to management of adjoining flood plain areas in order to prevent aggravation of existing hazards.

(e) Submit on the anniversary date of the (COUNTY'S)(COMMUNITY'S) initial eligibility, an annual report to the Administrator on the progress made during the past year within the (County)(Community) in the development and implementation of flood plain management measures.

(2) Take such other official action as may be reasonably necessary to carry out the objectives of the program.

BE IT FURTHER RESOLVED, that this (BOARD, COUNCIL, ETC.) hereby appoints (AGENCY or OFFICIAL) with the overall responsibility, authority and means to implement all commitments made herein.

Section V.

SUMMARY OF REQUIRED LAND USE AND CONTROL MEASURES FOR FLOOD PRONE AREAS

Under the National Flood Insurance Act, as amended, flood insurance cannot be made available unless the locality has adopted adequate land use and control measures consistent with HUD criteria. These measures must be applied uniformly throughout the locality to all privately and publicly owned lands within flood-prone areas.

The land use and control measures that must be in force depend upon the amount of technical data made available to the locality by HUD.

- A. Where no information on specific flood hazard areas or flood stages has been made available, the locality shall:
1. Require building permits for all proposed construction or other improvements in the locality;
 2. Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must (a) be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, (b) use construction materials and utility equipment that are resistant to flood damage, and (c) use construction methods and practices that will minimize flood damage;
 3. Review subdivision proposals and other proposed new developments to assure that (a) all such proposals are consistent with the need to

minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage, and (c) adequate drainage is provided so as to reduce exposure to flood hazards; and

4. Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into flood waters, and require onsite waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

(The above measures are encompassed within the sample ordinance and resolution contained in Section VI of this report.)

Note: In accordance with Minnesota Statutes, Section 104.04, Subd. 3, the Department must approve any local flood management ordinance prior to its adoption or any amendments to an existing flood plain management ordinance prior to their adoption. To facilitate the locality's application for flood insurance, the Department will attempt to review and approve or disapprove a proposed flood plain management ordinance within 10 days after receiving it. Thereafter, it will be returned to the locality for action by the local Board or Council.

- B. After HUD has identified specific flood hazard areas and provided water surface elevations for the regional (100-year) flood the minimum land use and control measures that the locality must adopt, within 6 months of the date it receives this information, shall:

1. Take into account flood plain management programs, if any, already in effect in neighboring areas;
2. Apply at a minimum to all areas identified by HUD as flood plain areas having special flood hazards;
3. Provide that within the flood plain area having special flood hazards, the laws and ordinances concerning land use and control and other measures designed to reduce flood losses shall take precedence over any conflicting laws, ordinances, or codes;
4. Require building permits for all proposed construction or other improvements in the flood plain area having special flood hazards;
5. Review building permit applications for major repairs within the flood plain area having special flood hazards to determine the proposed repair (a) uses construction materials and utility equipment that are resistant to flood damage, and (b) uses construction methods and practices that will minimize flood damage;
6. Review 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 and mobile homes) (a) is protected against flood damage, (b) is designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure, (c) uses construction materials and utility equipment that are resistant to flood damage, and (d) uses construction methods and practices that will minimize flood damage;
7. Review subdivision proposals and other proposed new developments to assure that (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated,

and constructed to minimize or eliminate flood damage, and (c) adequate drainage is provided so as to reduce exposure to flood hazards;

8. Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require onsite waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding;
9. Require new construction or substantial improvements of residential structures within the area of special flood hazards to have the lowest floor (including basement) elevated to or above the level of the 100-year flood;
10. Require new construction or substantial improvements of non-residential structures within the area of special flood hazards 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 floodproofed up to the level of the 100-year flood;

(For requirements 9 and 10 above, minimum statewide standards require elevation to the flood protection level, which is defined as a point not less than one foot above the water surface profile associated with the 100-year flood plus any increases in flood heights attributable to encroachments on the flood plain (see attached sketch). Since this standard is more restrictive than HUD requirements, it must be met.)

11. Provide that no use, including land fill, may be permitted within the flood plain area having special flood hazards unless the applicant for the land use has demonstrated that the proposed use, when combined

with all other existing and anticipated uses, will not increase the water surface elevation of the 100-year flood more than 1 foot at any point.

(Minimum statewide standards provide that generally the increase in water surface elevation of the 100-year flood resulting from flood plain encroachment shall not exceed 0.5 feet. Since this standard is more restrictive than HUD requirements, it must be met.)

C. In those areas where sufficient information is available to allow the locality to select a floodway, the minimum land use and control measures that the locality must adopt, within 6 months of the date it receives this information, shall:

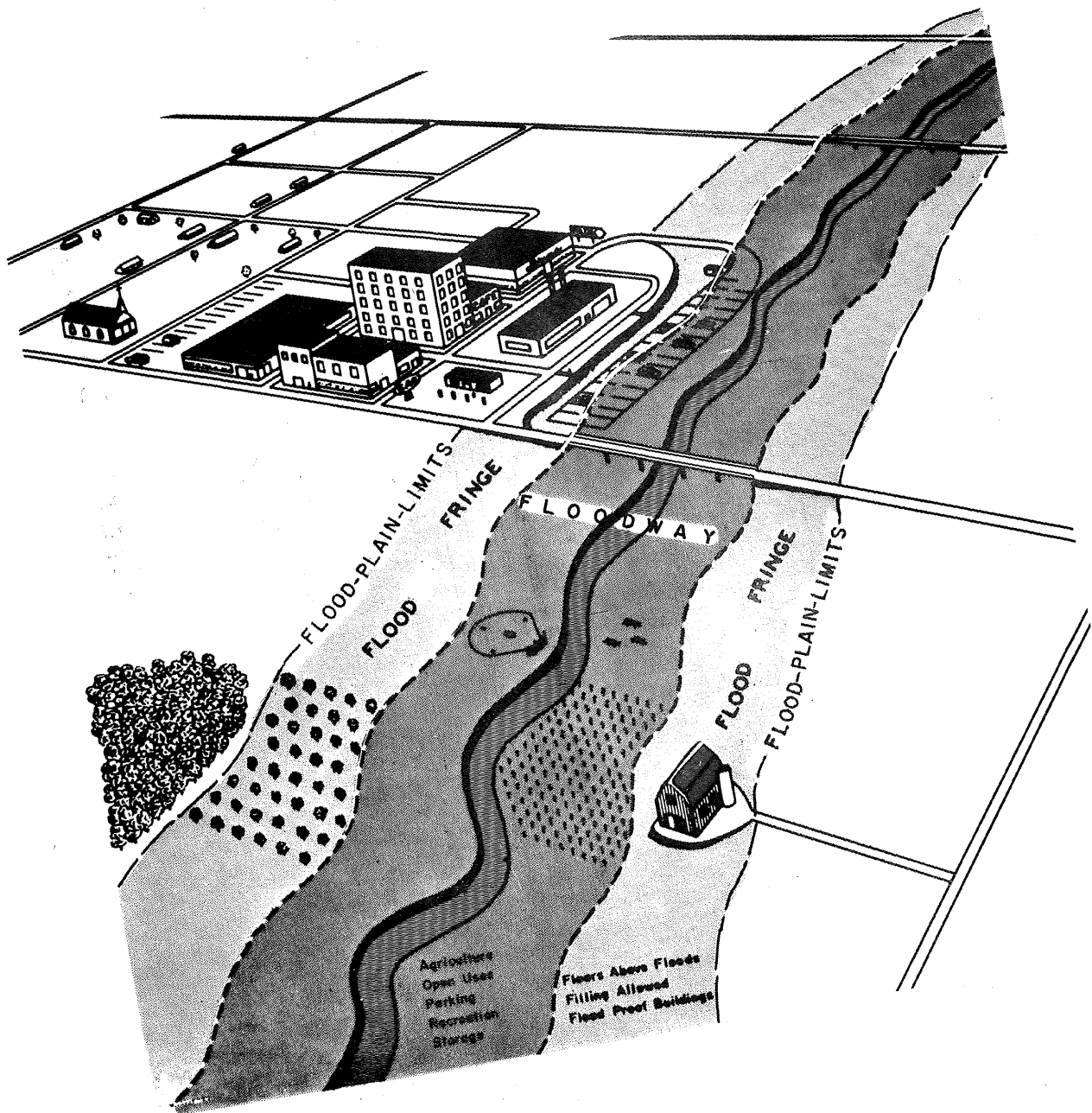
1. Meet the requirements of 1 - 11 under B above;
2. Designate a floodway for passage of the water of the 100-year flood.

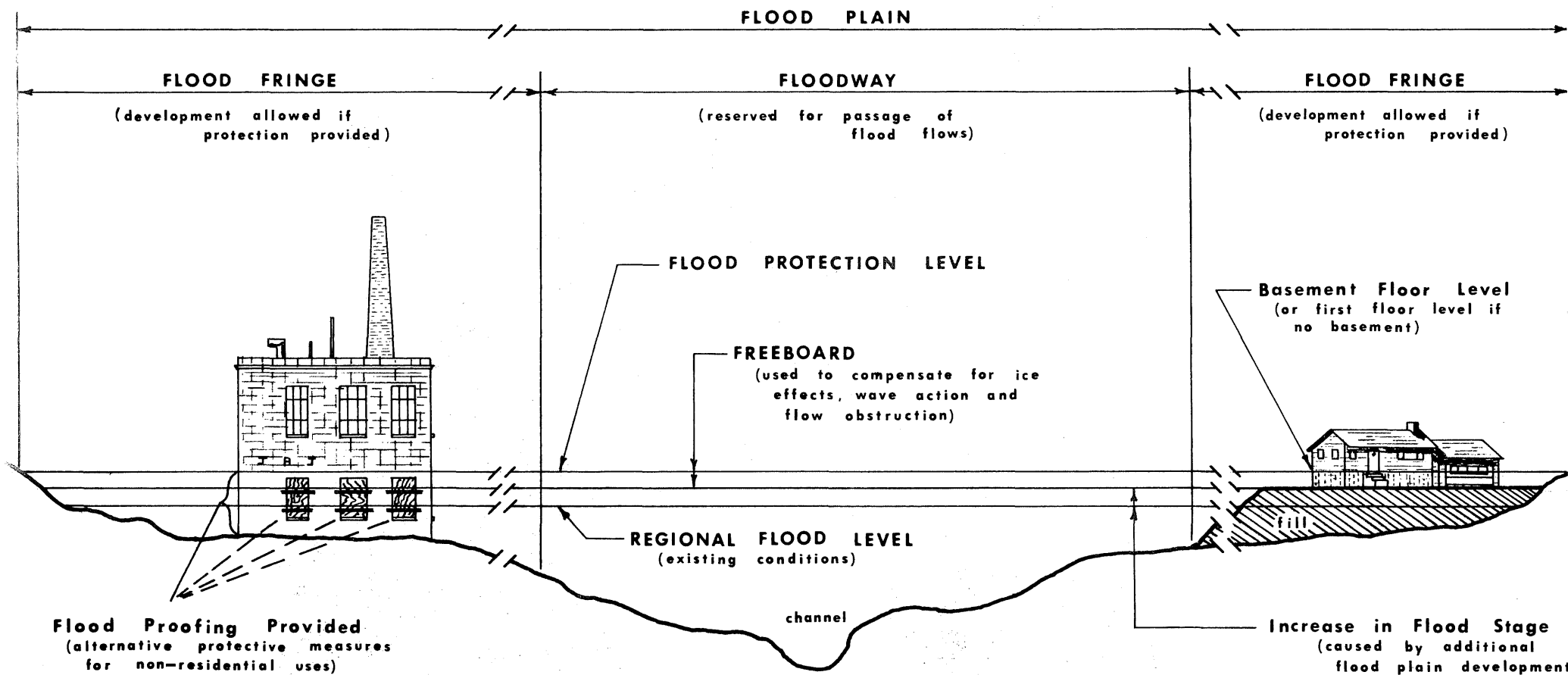
The selection of the floodway shall be based on the principle that the area chosen for the floodway must be designed to carry the waters of the 100-year flood, without increasing the water surface elevation of that flood more than 1 foot at any point;

(Minimum statewide standards provide that generally the increase in water surface elevation of the 100-year flood resulting from flood plain encroachment shall not exceed 0.5 feet. Since this standard is more restrictive than HUD requirements, it must be met.)

3. Provide that existing nonconforming uses in the floodway shall not be expanded but may be modified, altered, or repaired to incorporate floodproofing measures, provided such measures do not raise the level of the 100-year flood; and

4. Prohibit fill or encroachments within the designated floodway that would impair its ability to carry and discharge the waters resulting from the 100-year flood, except where the effect on flood heights is fully offset by stream improvements.





Valley Cross Section

Section VI.

SAMPLE FLOOD PLAIN REGULATION PROVISIONS

Under the National Flood Insurance Act, as amended, flood insurance cannot be made available unless a locality has adopted land use and control measures for flood hazard areas that are consistent with U. S. Department of Housing and Urban Development (HUD) criteria. These criteria are summarized in Part A of Section V of this report and are outlined in more detail in HUD rules and regulations contained in Section VIII of this report.

To assist those communities and counties that may wish to apply for flood insurance eligibility, two suggested approaches have been prepared, either of which may be used to satisfy the above HUD requirements.

The preferred approach is the enactment of local regulations in ordinance form. A sample flood plain regulation ordinance has been prepared to illustrate this approach and is contained in this section. The ordinance can serve several purposes. First, it can be used to evaluate the adequacy of any existing regulations the locality may have in effect pertaining to flood hazard areas. Second, it can be used to amend existing regulations in order to meet minimum HUD criteria. Third, it can serve as a guideline in the adoption of a separate ordinance for regulation of uses within flood hazard areas.

The sample ordinance is designed to minimize changes that may be required at a later date in developing a more comprehensive ordinance as additional data on flood hazard areas are made available to the locality. Eventually local flood plain regulations must be upgraded consistent with applicable HUD and state (Minnesota Regulations NR 85-93) standards.

In accordance with Minnesota Statutes, Section 104.04, Subd. 3, the Department of Natural Resources must approve any local flood plain management ordinance prior to its adoption or any amendments to any existing flood plain management ordinance prior to their adoption. To facilitate a locality's application for flood insurance the Department will attempt to review and approve or disapprove a proposed flood plain management ordinance within fifteen (15) days after receiving it. Thereafter, it will be returned to the locality for legislative action.

The other approach is the enactment of a resolution by the locality to comply with the minimum HUD land use and control criteria. A sample resolution has been prepared to illustrate this approach and is also contained in this section.

The locality may prefer this approach in those instances where it does not have sufficient information to define flood hazard areas. However, the locality should be aware that resolutions generally indicate only a formal policy direction and do not always have regulatory authority or legal binding effect.

The use of a resolution should be viewed as an interim measure until the locality has sufficient data and opportunity to adopt flood plain regulations of a more formal nature, as outlined above.

SAMPLE FLOOD PLAIN REGULATION ORDINANCE
FOR COMMUNITIES OR COUNTIES
WISHING TO QUALIFY FOR
FLOOD INSURANCE

Minnesota Department of Natural Resources
Division of Waters, Soils and Minerals
Centennial Office Building
St. Paul, Minnesota 55155

July 1972

* * * * * PREFACE * * * * *

FLOOD PLAIN MANAGEMENT ACT

The Minnesota Flood Plain Management Act (Minnesota Statutes, Chapter 104), authorizes joint state - local action to promote the wise use and management of flood plain lands in order to protect human life and health and reduce private and public economic losses caused by flooding. Counties, cities, villages and boroughs have the responsibility to enact, administer and enforce reasonable and effective flood plain management ordinances.

NATIONAL FLOOD INSURANCE PROGRAM

In 1968 Congress adopted the National Flood Insurance Act (title XIII of the Housing and Urban Development Act of 1968). This Act is designed to provide previously unavailable flood insurance protection to property owners in flood prone areas. For some areas a Federal subsidy of up to 90 percent of the cost of the insurance is available. To qualify for such a subsidy, a community must adopt and enforce adequate land use control measures which meet criteria established by the Federal Insurance Administrator (Title 24 - Housing and Housing Credit, Federal Register, Vol. 36, No. 176 -- Friday, September 10, 1971).

PURPOSE OF THE PROPOSED FLOOD PLAIN REGULATIONS

The basic purpose of the following flood plain regulations is *not to prohibit* but *to guide* flood plain development in flood plain areas consistent with the flooding threat and a community's land needs. The regulations are designed to meet the minimal criteria established by the Federal Insurance Administrator to qualify a community for subsidized flood insurance. The regulations provide a minimal approach to prevent the unwise use of flood plain lands which causes loss of life and property, disruption of commerce and governmental services, unsanitary conditions, and interruption of transportation and communications. The regulations can reduce flood damages, expenses and inconveniences, and assure that community lands are put to their most appropriate use.

USE OF THE SUGGESTED ORDINANCE

This ordinance is designed for use by counties or municipalities which must meet minimal Federal Insurance Administration criteria to qualify for flood insurance. Until additional studies to delineate flood plain and floodway areas within the locality are completed it will satisfy the Statewide Standards and Criteria for Management of Flood Plain Areas of Minnesota (Minn. Regs NR 85 - 93).

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developed by the Department of Natural Resources. However, the ordinance must be upgraded as regional flood data becomes available to a locality. Comprehensive ordinance approaches are set out in "Sample Flood Plain Zoning Ordinance for Local Units of Government Using Available Flood Information in the Absence of Detailed Engineering Studies" (December 1970), "Sample Flood Plain Zoning Ordinance for Local Units of Government Using Detailed Engineering Studies" (February 1971), and "Sample Subdivision Control Ordinance for Flood Hazard Areas" (September 1971) available from the Minnesota Department of Natural Resources, the League of Minnesota Municipalities, and the Association of Minnesota Counties.

The ordinance can either be adopted as a separate flood plain regulation ordinance or can be used to amend an existing comprehensive zoning and subdivision control ordinance.

The essential provisions of the ordinance are similar to the "Sample Flood Plain Zoning Ordinance for Local Units of Government Using Available Flood Information in the Absence of Detailed Engineering Studies" and the "Sample Subdivision Control Ordinance for Flood Hazard Areas". However, much of the detail and less important provisions have been omitted. The approach is quite simple. An individual wishing to construct a use or subdivision with flood damage potential is required to seek a permit. If the whole community has been subjected to regulatory control the local Board of Adjustment or plat approving authority determines if there is any possibility of flooding at the site. Often this can be a simple matter based upon topographic or other information. If there is some possible flooding threat or if a permit has been requested for an identified flood hazard area, the regulatory body, with assistance, evaluates specifically the regional flood threat at the site and the possible effect of the proposed use upon flood flows. These determinations usually require expert hydraulic assistance. Once expert determination has been completed, the Board or platting authority applies the ordinance standards and denies, permits, or conditionally permits the proposed use or subdivision.

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FLOOD PLAIN REGULATION ORDINANCE FOR COMMUNITIES OR
COUNTIES WISHING TO QUALIFY FOR FLOOD INSURANCE

SECTION I. STATUTORY AUTHORIZATION

The Legislature of the State of Minnesota has in Minnesota Statutes
_____ granted authority to Minnesota
(insert appropriate section numbers)
_____ to adopt zoning ordinances and subdivision
(municipalities, counties)
regulations. Therefore, the _____ do
(legislative body of the adoptive unit)
ordain as follows:

SECTION II. PURPOSES AND FINDING OF FACT

The _____ of _____ find:
(legislative body) (county or municipality)

(1) A portion of the lands within the regulatory jurisdiction of _____
(county)
_____ is subject to recurrent flooding by overflow of streams and
(or municipality)
other watercourses causing hazard to life and property, disruption of commerce
and governmental services, unsanitary conditions, and the interruption of trans-
portation and communications, all of which are detrimental to the health, safety,
welfare, and property of the occupants of flood plain areas and the people.

(2) It is the purpose of this Ordinance to promote the public health,
safety and general welfare by minimizing the losses described in Section II(1),
preventing fraud and victimization, and qualifying the _____
(county or municipality)
for flood insurance.

(3) _____ intends to conduct or aid in the conduction,
(County of municipality)
within a reasonable time, studies which will permit more detailed delineation
and regulation of flood plain areas.

SECTION III. GENERAL PROVISIONS

(1) Compliance. No structure or land shall hereafter be used, no land shall be subdivided, and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations including shoreland regulations which apply to uses within the jurisdiction of this Ordinance.

(2) Abrogation and Greater Restriction. It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. This Ordinance shall take precedent over and repeal other inconsistent ordinances to the extent that it imposes additional restrictions upon land use.

(3) Severability. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

(4) Definitions. Words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application. Words and phrases used in this Ordinance shall be defined as provided in Minn. Reg.

NR 85(c) and as specifically defined below:

Regulatory Flood Protection Elevation - a point not less than one foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this Ordinance are required to be elevated or flood proofed.

Subdivision - the division of a parcel of land into two or more lots or parcels for the purpose of transferring of ownership or building development, or, if a street is involved, any division of a parcel of land; provided that a division of land for agricultural purposes into lots or parcels of five acres, or more, and not including a new street shall not be deemed a subdivision.

SECTION IV. JURISDICTION OF THIS ORDINANCE

The jurisdiction of this Ordinance shall include the following areas:

(Options, use one or the other)

(1) All lands within the regulatory jurisdiction of _____
(name of county or municipality)

(2) All lands delineated on the attached flood hazard district zoning map which is hereby made a part of this Ordinance.

SECTION V. USE REGULATION

Open space uses specified below shall be permitted within the jurisdiction of this Ordinance to the extent they are not prohibited by any other ordinance and provided that they do not require structures, fill or storage of materials or equipment:

- (1) Agricultural uses such as general farming, grazing, horticulture, forestry, and wildcrop harvesting.
- (2) Industrial - commercial uses such as loading areas, parking areas, airport landing strips and public utility transmission facilities.

(3) Private and public recreational uses such as golf courses, tennis courts, driving ranges, picnic grounds, boat launching sites, swimming areas, parks, wildlife and nature preserves, target ranges, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, hiking and horseback riding trails.

(4) Residential uses such as lawns, gardens, parking areas and play areas.

All other uses will require a special permit pursuant to Section VI of this Ordinance. All subdivision plats must be approved pursuant to Section VII of this Ordinance.

SECTION VI. SPECIAL PERMIT USES

All proposed special permit uses within the jurisdiction of this Ordinance shall be subject to a flood hazard evaluation in accordance with procedures outlined in Section VIII herein. Any proposed new construction or substantial improvement (including prefabricated and mobile homes) within those areas that are subject to flooding, as determined by the Board of Adjustment in accordance with procedures outlined in Section VIII herein, shall comply with standards for flood land uses established by Minnesota Regulations NR 85-93 and must:

- (1) Be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) Use construction materials and utility equipment that are resistant to flood damage.
- (3) Use construction methods and practices that will minimize flood damage.
- (4) Provide flood protection to the flood protection elevation.
- (5) Provide that new or replacement water supply and/or sanitary sewage systems be designed and used to minimize or eliminate infiltration of

flood waters, and require onsite waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding. All private sewage and other sanitary waste disposal systems must conform to applicable standards, criteria, rules and regulations of the Minnesota Department of Health and the Pollution Control Agency and of any applicable local governmental regulations in terms of size, construction, and maintenance.

- (6) Include adequate drainage facilities to reduce exposure to flood hazards.
- (7) Not, when combined with all other existing and reasonably anticipated uses, increase the water surface elevation of the regional flood more than 0.5 foot at any point.

SECTION VII. SUBDIVISIONS

No flood prone land shall be subdivided which is held unsuitable for its intended use by the _____ for reasons of flooding, inadequate drainage, soil and rock formations with severe limitations for development, susceptibility to mudslides or earth slides, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature harmful to the health, safety or welfare of the future residents of the proposed subdivision or community. However, the _____ may approve the preliminary and final plats if the subdivider improves the land through fill or other techniques to provide building sites free from flooding, designs roads to provide safe access during times of flood, and locates or designs public utilities and facilities, such as sewer, gas, electrical, and water systems to provide protection from the regional flood and undertakes other measures to overcome development limitations and thereby render the land suitable

for its intended use. The _____ may approve preliminary
(platting authority)
and final plats if the subdivider agrees to make suitable improvements and
places a sum in escrow sufficient to guarantee performance of this agreement.
Land subdivisions shall not be approved if the cost of providing governmental
services will impose an unreasonable economic burden on the local governmental
unit.

All plats must meet the requirements of the Minnesota Statutes Chapter 505.
In addition, flood hazard areas shall be clearly labeled on the plat. Restrictive
deed covenants shall be filed with the final plat and shall provide that the
flood plain areas be left essentially in the state shown on the plat, establish
finished elevations of building, structures and private streets and roads, and
require that additions or modifications to these facilities will not violate
any provisions of the flood plain zoning ordinances or supplemental regulations.

SECTION VIII. PROCEDURES FOR SPECIAL USE PERMITS AND SUBDIVISION PLAT APPROVAL

(1) Application for special use permits shall be made to the Zoning
Administrator on forms furnished by him and shall include the following where
applicable: plans in duplicate drawn to scale, showing the nature, location,
dimensions and elevations of the lot; existing or proposed structures, fill or
storage of materials; and the location of the foregoing in relation to an adjacent
water body. The Zoning Administrator shall determine, based upon existing data
sources including topographic maps and soil maps, whether the proposed development
may be subject to flooding by the regulatory flood.

If there is no reasonable possibility that the proposed development is
subject to flooding the Zoning Administrator may grant the permit subject to
the standards and procedures of this Ordinance and other applicable regulations.

If there is a reasonable possibility that the site is subject to flooding, the Zoning Administrator shall transmit the application to the Board of Adjustment for its determinations. The Zoning Administrator shall also provide the Commissioner of Natural Resources with a copy of any application for a special use permit, where a hearing is to be held to consider such application, not less than ten (10) days before the date of the hearing.

The Board of Adjustment may require the applicant to furnish additional information including, but not limited to, (1) a typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information; and (2) a profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

The Board of Adjustment may transmit the assembled information to a designated engineer or other expert person or agency for technical assistance to determine if the proposed use is in fact within the area subject to inundation by the regulatory flood, whether the use is located in a floodway or flood fringe area determined consistent with the standards of Minn. Regs. NR 87(d), the seriousness of flood damage to the use, the adequacy of the plans for protection and other technical matters. Based upon these technical determinations the Board of Adjustment shall determine the compliance of the proposed use with the standards established by Section VI of this Ordinance, Minn. Regs. NR 85-93, and all other codes and regulations. The Board of Adjustment may deny, conditionally permit, or permit the proposed use. A copy of all decisions granting a special use permit shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such action.

(2) A subdivider shall submit ____ copies of a preliminary sketch plan for any plat to the _____. The sketch plan shall include topographic information deemed necessary by _____; zoning classification; acreage to be subdivided; lot number and boundaries; location of rivers, streams, creeks, lakes and ponds; highest known water elevation, if available; property lines; existing and proposed service facilities such as roads, sewage disposal systems, water supply, drainage facilities, lands to be reserved or dedicated or reserved for open space use; and draft of proposed restrictive covenants (if any) to be imposed. The _____ shall determine, based upon existing data sources, whether the proposed development may be subject to flooding by the regulatory flood. If there is reasonable possibility of such flooding, the _____ may require the applicant to furnish additional information similar to that for special use permits specified above. The _____ shall make more precise evaluations of flooding threats similar to those specified for special use permits above and determine compliance of the proposed subdivision with standards established by this Ordinance. The _____ shall approve, deny, or conditionally approve the preliminary plat within ____ days.

The final plat must conform substantially to the preliminary plat as approved. The final plat must show "as built" conditions except in instances where a subdivider is permitted to post a bond in lieu of installing improvements. The plat shall conform to the provisions of Minnesota Statutes, Section 505.08 and shall include all information shown on the preliminary plat except contour lines, shall show the flood data specified in Section VII of this Ordinance, and shall include plans for sanitary sewers, drainage systems, water supply systems, flood protective works, roads, parks and other facilities, and shall show parks, roads and other areas dedicated to the public. No plat

may be approved until a public hearing has been held, after due notice has been given for the hearing. The _____ shall deny, approve, or conditionally approve the proposed final plat within ____ days of submission. When duly certified, signed, witnessed and acknowledged as provided in Minnesota Statutes, Section 505.03, the plat shall be filed in the office of the County Register of Deeds.

SECTION IX. VARIANCES TO ZONING REGULATIONS AND MODIFICATIONS IN SUBDIVISION
STANDARDS

The Board of Adjustment may issue variances to the zoning regulations and the _____ may permit modifications in the subdivision regulations when all of the following conditions are met:

- (1) Because of the unique topography or other conditions of land involved, literal application of the provisions of the Ordinance would impose undue hardship.
- (2) Conditions are attached to variances or plat approval that assure compliance with the requirements of this Ordinance insofar as practical.
- (3) The purpose and intent of this Ordinance are observed.
- (4) There is no increase in the flood hazard or flood damage potential.

The Commissioner of Natural Resources shall be provided a copy of any application for a variance, where a hearing is to be held to consider such application, not less than ten (10) days before the date of the hearing. A copy of all decisions granting a variance shall be forwarded to the Commissioner within ten (10) days of such action.

SECTION X. CERTIFICATES OF ZONING COMPLIANCE

Upon completion of any work or project pursuant to a special use permit or variance granted pursuant to this Ordinance, and prior to the use or occupancy of the land or structure permitted by the special use permit or variance, a Certificate of Zoning Compliance shall be issued therefor by the Zoning Administrator stating that the use of the land or structure conforms to the requirements of this Ordinance. Prior to the issuance of such Certificate the applicant shall submit a certification by a registered professional engineer or land surveyor, as appropriate, or other qualified person designated by the governing body, that the finished fill and building floor elevations, flood proofing, and other flood protection measures have been completed in compliance with the provisions of this Ordinance and in compliance with the information given to the (county, city, village) in connection with the application for the special permit or variance.

SECTION XI. NONCONFORMING USES

A structure or the use of a structure or premises which was lawful before passage of this Ordinance, but does not comply with the provisions of this Ordinance, may be continued but shall not be rebuilt, expanded, changed, enlarged or altered to increase its nonconformity.

If any nonconforming use of a building is discontinued for more than 12 consecutive months, any future use of the building premises shall conform to the Ordinance. No nonconforming use shall be reconstructed after total or partial destruction of 50 percent of its value at the time of its becoming a nonconforming use or altered for more than 50 percent of its value at the time of its becoming a nonconforming use unless the structure is changed permanently to a conforming use.

SECTION XII. PENALTIES FOR VIOLATION

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with Variances, Special Uses, or Subdivision Plat approval) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$300 or imprisoned for not more than 90 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the _____ from taking
(local unit)
such other lawful action as is necessary to prevent or remedy any violation.

Commentary on Section I. Statutory Authorization

Reference should be made to appropriate local zoning and subdivision control authority. Municipal subdivision regulations (cities, villages, boroughs, and any town having village powers pursuant to Minnesota Statutes, Section 368.01) are authorized by Section 462.358. County controls for the subdivision of land and the approval of land plats are authorized by Section 394.25, Subd. 7, and Sections 505.09 to 505.13. Municipal zoning (cities, villages, boroughs and any town having village powers pursuant to Minnesota Statutes, Section 368.01) is generally authorized by Minnesota Statutes Chapter 462 (Section 462.357). Towns not exercising village powers are authorized to zone by Sections 366.10 et seq. of the Minnesota Statutes. County zoning is authorized by Sections 394.01 et seq.

Commentary on Section IV. Jurisdiction of the Ordinance

The language in the jurisdiction section must be modified to reflect the type of flood data used in a community. The first option, "all lands within the regulatory jurisdiction of" the community can be used where the Federal Insurance Administrator has declared an entire community a flood plain area having special flood hazards and has not defined the special flood hazard areas more precisely, has not provided water surface elevation data, and has not provided sufficient data to identify the floodway area. The second option "all lands delineated on the attached flood hazard district zoning map" can be used either where (1) the Administrator has identified the flood plain area having special flood hazards, but has produced neither water surface elevation data nor data sufficient to identify the floodway, or (2) the Administrator has identified the flood plain area having special flood hazards and

has provided water surface elevation data but has not provided data sufficient to identify the floodway.

Commentary on Section V. Use Regulations

Open space uses with low flood damage potential are permitted as a matter of right. Other uses and all subdivisions require an elevation to determine the severity of possible flood hazards.

Commentary on Section VI. Special Permit Uses

The standards governing all special permit uses are designed to meet minimal Federal Flood Insurance standards and the standards of Minn. Regs. NR 85 - 93. Note standards (7) which requires that uses must not, when combined with all other existing and anticipated uses, increase the water surface elevation of the regulatory flood more than 0.5 foot at any point. All special permit uses are examined prior to their issuance, pursuant to the procedures of Section VIII to determine possible flooding threats and the affects of the proposed uses upon flood flows. Minn. Regs. NR 87(d) and (e) set out standards for calculation of floodways and flood protection elevations.

Commentary on Section VIII. Procedures for Special Use Permits and Subdivision Plat Approval

The administrative procedures dealing with special use permits outlined in this section are based upon the assumption that the locality has created a position of Zoning Administrator or its equivalent. If the locality has not

or does not intend to create this position, then the administrative procedures outlined in this section must be modified to reflect the local administrative structure designed to deal with land use regulations.

It is to be noted that the Board of Adjustment or platting authority must determine whether proposed development "may be subject to flooding by the regulatory flood" before they submit a proposed special permit use permit or plat to a designated engineer or expert person or agency for more detailed hydraulic investigation. This provision would not be applicable if the second of the options suggested in Section IV is used -- regulation of mapped flood hazard areas and not other lands. If the ordinance is used with the first option -- regulations of all lands in the community -- an initial and very elementary evaluation of flood hazard potential is necessary to prevent unnecessary hydrologic evaluation of all proposals for development throughout the community. For example, proposals for development on hill tops and hill sides high above the nearest stream need not be hydraulically evaluated.

It is to be noted that the platting authority must consider not only flood hazards but other development limitations which may render a site unsuitable for its intended use. Localities may provide additional procedures to evaluate applications as to land use hazards other than flooding.

SAMPLE

RESOLUTION ADOPTING LAND USE AND CONTROL MEASURES IN FLOOD PLAIN AREAS

WHEREAS, certain areas of _____ are subject to periodic flooding from its streams causing serious damages to properties within these areas; and

WHEREAS, relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968 as amended; and

WHEREAS, it is the intent of this _____ to comply with land use and management criteria regulations as required in said Act; and

WHEREAS, it is also the intent of this _____ to recognize and duly evaluate flood hazards in all official actions relating to land use in the flood plain areas having special flood hazards.

NOW, THEREFORE, BE IT RESOLVED, that this _____ hereby assures the Federal Insurance Administration that it will:

(1) Require building permits for all proposed construction or other improvements in the _____;

(2) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must (i) be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, (ii) use construction materials and utility equipment that are resistant to flood damage, and (iii) use construction methods and practices that will minimize flood damage;

(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, elevated, and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided so as to reduce exposure to flood hazards; and

(4) Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require onsite waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding. All private sewage and other sanitary waste disposal systems must conform to applicable standards, criteria, rules and regulations of the Minnesota Department of Health and the Pollution Control Agency and of any applicable local governmental regulations in terms of size, construction and maintenance.

Dated this _____ day of _____, 19__.

ATTEST:

Section VII.

FEDERAL FLOOD INSURANCE PROGRAM
IN MINNESOTA

<u>Locality</u>	<u>Date Eligible</u>
Rochester	March 31, 1970
Winona	June 19
Clay County	August 7
Breckenridge	Sept. 4
Austin	Sept. 25
Mankato	October
North Mankato	Nov. 6
Bloomington	March 12, 1971
Moorhead	March 19
Chaska	March 19
Afton	March 19
Blue Earth County	March 19
St. Mary's Point	March 19
Lake St. Croix Beach	March 19
Carver	April 2
Montevideo	April 2
St. Paul	April 2
Bayport	April 2
Lakeland	April 9
Lakeland Shores	April 9
Lilydale	April 9
Goodhue County	April 30
Washington County	April 30
Stillwater	Nov. 5
Cook	Dec. 3
Granite Falls	Dec. 23
Brown County	January 28, 1972
LaCrescent	February 11
Anoka	February 11
Polk County	February 11
Jackson	March 17
St. Cloud	March 31
Scott County	April 14
Isanti County	April 14
Cottage Grove	May 12

Section VIII.

HUD INFORMATIONAL MATERIAL

ON THE

NATIONAL FLOOD INSURANCE PROGRAM

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

Reduced Chargeable Premium Rates
Effective July 10, 1972

Effective July 10, 1972, chargeable or subsidized premium rates are being reduced up to 40% on all new and renewal business. The new rates are as follows:

Type of Structure	Value of Structure	Rate per year per \$100 structural coverage	Rate per year per \$100 contents coverage
(1) Single Family residential.	\$17,500 and under--	\$0.25	\$0.35
	17,501 - 35,000--	.30	.40
	35,001 and over--	.35	.45
(2) All other residential.	30,000 and under--	.25	.35
	30,001 - 60,000--	.30	.40
	60,001 and over--	.35	.45
(3) All non-residential (including hotels and motels with normal occupancy of less than six months in duration).	30,000 and under--	.40	.75
	30,001 - 60,000--	.50	.75
	60,001 and over--	.60	.75

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HUD NEWS

**U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT
WASHINGTON D.C. 20410**

HUD-No. 72-140
Phone (202) 755-5284
(202) 755-5581

March 8, 1972

THE NATIONAL FLOOD INSURANCE PROGRAM

QUESTIONS AND ANSWERS

1. Q. What is the National Flood Insurance Program and what is it designed to do?
 - A. The program was established by the National Flood Insurance Act of 1968 (enacted as part of the Housing and Urban Development Act of 1968), to make specified amounts of flood insurance, previously unavailable from private insurers, available under Federal auspices. In return for the provision of subsidized insurance to existing properties, the Act requires that State and local governments adopt and enforce land use and control measures that will limit land development in flood-prone areas in order to avoid or reduce future flood damage. A 1969 Amendment to the Act expanded the definition of flood to include mudslides, and mudslide area restrictions are also required, wherever applicable.
2. Q. Who is responsible for the operation of the program?
 - A. Authority under the Act has been delegated to the Federal Insurance Administrator in the U. S. Department of Housing and Urban Development (451 - 7th Street, S.W., Washington, D. C. 20410). The program is a cooperative effort between the Federal Government and the private insurance industry, which is represented by the National Flood Insurers Association.
3. Q. What is the National Flood Insurers Association?
 - A. The NFIA is an association of private insurance companies formed specifically to provide flood insurance under the cooperative Government-private industry program. Membership is open to all qualified companies licensed to write property insurance under the laws of any State. Member insurance companies have subscribed more than \$42 million in risk capital. The NFIA appoints a servicing company, generally on a statewide basis, to disseminate information both to the public and to insurance agents, to process all insurance policies, and to handle the adjustment of claims for loss payments.

4. Q. How does a community become eligible for flood insurance?

A. To qualify for the program, a community must submit to the Administrator a written request to participate in the flood insurance program for the entire area under its jurisdiction. The documentation required by the regulations governing the flood insurance program must accompany the written request.

Although there is no application form, the Administrator will, on request, furnish local officials with a copy of a checklist entitled Prerequisites for the Sale of Flood Insurance describing the documentation prescribed by 24 CFR 1909.22 which is necessary to qualify for flood insurance. Among other items pertaining to the flood hazard in the community, officials must submit a copy of the land use and control measures which have been adopted in compliance with the standards set forth in the program regulations (24 CFR 1910, Subpart A).

5. Q. How may a community get assistance in qualifying for flood insurance coverage?

A. Assistance in qualifying for flood insurance is available directly from the Federal Insurance Administration. In addition, the Governor of every State and the Commonwealth of Puerto Rico has appointed a State coordinating agency to assist communities in qualifying for the program and in the development of acceptable land use and control measures. (See list of State coordinators on last page).

6. Q. What notice is given when a community becomes eligible?

A. When a community becomes eligible, notice is published in the Federal Register, and officials of the community are advised by letter of the date that the sale of insurance will commence. Press releases are provided to local papers and radio and television stations. Local insurance agents and brokers are informed individually of the availability of coverage by NFIA.

7. Q. How does a property owner obtain a flood insurance policy?
 - A. After a community begins participating in the flood insurance program, flood insurance policies may be purchased from any property and casualty insurance agent or broker licensed to do business within the State.
8. Q. What types of structures are eligible for flood insurance coverage?
 - A. Effective March 1, 1972, all structures used for residential, business, religious, or agricultural purposes, structures occupied by nonprofit organizations, and structures owned by State or local governments or agencies thereof are eligible for flood insurance coverage.
9. Q. How are claims handled under this program?
 - A. Flood loss claims are processed in the same way as loss claims for other types of property insurance. Claims may be filed either with the local insurance agent or broker who sold the policy or with the local insurance company that issued the policy.
10. Q. What losses are covered by flood insurance?
 - A. The policy covers losses resulting from a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters, (2) the unusual and rapid accumulation or runoff of surface waters from any source, or (3) mudslides which are caused or precipitated by accumulations of water on or under the ground. It does not, however, cover water or mudslide damage which results from causes on the insured's property or within his control, or from a condition that does not cause general flood or mudslide damage in the area. The policy does not cover erosion losses or losses resulting from floods or mudslides already in progress at the time of application for coverage.
11. Q. Are losses caused by sewer backup covered?
 - A. Sewer backup losses are not covered, except where a general condition of flooding exists and the sewer backup is clearly a result of that condition.

12. Q. Who may purchase flood insurance at subsidized rates and what are the limitations on amounts of coverage?

A. Insurance at subsidized premium rates may be purchased for any existing building or for any building whose construction was started before the date the community was identified as a hazardous area, and for any new construction outside the areas of special flood hazards. Insurance at the subsidized rates may be purchased in amounts up to \$17,500 for single family residential structures (including townhouses or rowhouses) and up to \$30,000 for all other structures. Contents coverage is available at subsidized rates in amounts up to \$5,000 per unit and may be purchased by either the owner or the tenant.

13. Q. What are the subsidized premium rates for flood insurance?

A. Subsidized premium rates are shown in the following table:

TYPE OF STRUCTURE	VALUE OF STRUCTURE	RATE PER YEAR	
		PER \$100 STRUCTURAL COVERAGE	PER \$100 CONTENTS COVERAGE
(1) Single family residential	\$17,500 and under	\$0.40	\$0.50
	17,501 - 35,000	.45	.55
	35,001 and over	.50	.60
(2) All other residential	30,000 and under	.40	.50
	30,001 - 60,000	.45	.55
	60,001 and over	.50	.60
(3) All non- residential (including hotels and motels with normal occupancy of less than six months in duration)	30,000 and under	.50	1.00
	30,001 - 60,000	.60	1.00
	60,001 and over	.70	1.00

Upon completion of a rate study for the particular community, additional coverage equal to the amounts listed in question #12 will be available at actuarial rates.

14. Q. Is new construction located in the areas of special flood hazards eligible for coverage?
- A. Construction which was begun after the date of identification of the areas having special flood hazards cannot be insured until the rate study for the community has been completed. Coverage at actuarial premium rates will then be available for properties located in the special flood hazard area.
15. Q. Is there a minimum insurance requirement?
- A. Although no minimum amount of insurance is required, the amount of coverage should be adequate for anticipated losses. The minimum premium charged on each policy is \$25, and there is a \$4 minimum charge for any change in coverage during the term of a policy.
16. Q. Do flood insurance policies have a deductible clause?
- A. Yes. The amount of the deductible, applicable separately to both the structure and the contents, is either \$200 or 2 percent of the amount of the loss, whichever is greater.
17. Q. What is the prohibition concerning Federal disaster assistance?
- A. To avoid duplication of benefits, the Act provides that Federal disaster assistance will not be available to reimburse property losses to the extent that the losses are covered under flood insurance policies. The Act also provides that no Federal disaster assistance will be available to reimburse losses that occur after December 31, 1973, to the extent that the owner could have obtained flood insurance and failed to do so. This latter requirement would apply only if flood insurance had been available in the community for at least one year. It would not be applicable to low income persons.
18. Q. What are the emergency and regular programs?
- A. The Federal Insurance Administration has been authorized to provide subsidized flood insurance until December 31, 1973, without first determining the individual community's actuarial premium rates, which is a prerequisite for coverage under the regular program. The emergency program is intended primarily as an interim program to provide earlier coverage for potential flood victims pending the completion of actuarial studies. The Federal Insurance Administration has no authority under the emergency program either to offer the higher limits of coverage or to offer subsidized premium rates to new construction. New construction cannot be covered under the emergency program but must wait until actuarial premium rates have been established. The emergency program does not affect the requirement that a community must have adequate land use and control measures in effect in order to participate in the flood insurance program.

19. Q. What is a special hazard area?
- A. For inland and coastal regions, the special flood hazard area generally means any area which has a one percent annual chance of flooding. The special mudslide hazard area is any area with a high potential for mudslides.
20. Q. Who is responsible for identifying the special flood hazard areas in a community?
- A. The Federal Insurance Administrator is responsible for identifying the special flood or mudslide hazard areas and for supplying the community with the technical data necessary to the development of a sound management program for flood and mudslide prone areas. The Administrator may initiate technical studies through other Federal agencies, State, or local agencies, or through private engineering firms, or he may utilize existing data. In any event, no expense for the study will accrue to the community.
21. Q. What is meant by flood plain management?
- A. 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 land use and control measures.
22. Q. What are the advantages of land use and control measures?
- A. Land use regulations can be helpful in allocating unprotected lands to their most appropriate uses and in preventing private and public landowners from burdening other landowners or the public with the cost of losses resulting from the unwise use of flood-prone lands.
23. Q. Why have land use requirements in an insurance program?
- A. The Congress recognized that Federal participation in the form of a subsidized insurance program alone would encourage the continued unwise use of flood hazard areas and result in greater expenditures of tax dollars to provide economic relief to the disaster victims. Therefore, the Congress authorized the subsidized insurance for those exposed to flood hazards, provided that future development would be guided to minimize losses.

24. Q. Who establishes and enforces the land use regulations?
- A. Although each State has the primary authority to control land use, in most cases local governments have been granted this authority.
25. Q. Must a community have land use and control measures in effect to apply for participation in the National Flood Insurance Program?
- A. Yes. Minimum standards for local ordinances have been published by the Federal Insurance Administrator. Local governments must show evidence that decisions concerning the location, design, and construction of new structures will take known flood hazards into account. This type of control is generally accomplished through a building permit system and sub-division regulations.
26. Q. Will a community be required to adopt other land use and control measures after it is in the program?
- A. Yes. Within six months after the Administrator has furnished new technical data more precisely defining the hazards, additional land use and control requirements, based on the data furnished, will have to be met.
27. Q. Are existing structures affected by the adoption of land use measures?
- A. Whether land use controls apply to existing structures is determined by the laws of the community in which the property is located. From a Federal standpoint, however, such controls must apply to all new construction or substantial improvement of properties located in the special flood hazard area begun after the date the flood hazard area is identified by the Administrator.
28. Q. Can a community be selective in its application of land use and control measures?
- A. No. The land use and control measures must be applied equally, at least to all known special flood or mudslide hazard areas within its jurisdiction.

29. Q. May a community adopt land use measures that vary from the standards established by the Administrator?
- A. Land use measures that do not fully meet the standards prescribed in the regulations may be adopted if exceptional conditions exist that make adherence to such standards premature or uneconomic. The nature, extent of, and reasons for any variances from regulatory standards should be explained in writing and supporting economic, topographic, hydrologic, and other technical data submitted with the copy of the land use measures sent to the Administrator.

STATE COORDINATING AGENCIES

Alabama	Alabama Development Office Office of State Planning State Office Building 501 Dexter Avenue Montgomery, Alabama 36104	Delaware	Division of Soil and Water Conservation Department of Natural Resources and Environmental Control Tatnall Building, Capitol Complex Dover, Delaware 19901
Alaska	Local Affairs Agency Office of the Governor Pouch AB Juneau, Alaska 99801	Florida	Department of Community Affairs 309 Office Plaza Tallahassee, Florida 32301
Arizona	Arizona State Land Department 1624 W. Adams, Room 400 Phoenix, Arizona 85007	Georgia	Bureau of State Planning and Community Affairs 270 Washington Street, S.W. Atlanta, Georgia 30334
Arkansas	Division of Soil and Water Resources State Department of Commerce State Capitol Building Little Rock, Arkansas 72201	Hawaii	Board of Land and Natural Resources Department of Land and Natural Resources P. O. Box 621 Honolulu, Hawaii 96809
California	Department of Water Resources P. O. Box 388 Sacramento, California 95802	Idaho	Department of Water Administration State House, Annex 2 Boise, Idaho 83707
Colorado	Colorado Water Conservation Board Room 102 1845 Sherman Street Denver, Colorado 80203	Illinois	Department of Local Government Affairs 325 West Adams Street Room 406 Springfield, Illinois 62706
Connecticut	Department of Environmental Protection Director of Water and Related Resources Room 225 State Office Building Hartford, Connecticut 06115	Indiana	Division of Water Department of Natural Resources 608 State Office Building Indianapolis, Indiana 46204

Iowa	Iowa Natural Resources Council James W. Grimes Building Des Moines, Iowa 50319	Mississippi	Mississippi Research and Development Center P. O. Drawer 2470 Jackson, Mississippi 39205
Kansas	Division of Water Resources State Board of Agriculture Topeka, Kansas 66612	Missouri	Water Resources Board P. O. Box 271 Jefferson City, Missouri 65101
Kentucky	Division of Water Kentucky Department of Natural Resources Frankfort, Kentucky 40601	Montana	Montana Department of Natural Resources and Conservation Water Resources Division Sam W. Mitchell Building Helena, Montana 59601
Louisiana	State Department of Public Works P. O. Box 44155 Capitol Station Baton Rouge, Louisiana 70804	Nebraska	Nebraska Soil and Water Conservation Commission State Capitol Building Lincoln, Nebraska 68509
Maine	Maine Soil and Water Conservation Commission State House Augusta, Maine 04330	Nevada	Division of Water Resources Department of Conservation and Natural Resources Nye Building Carson City, Nevada 89701
Maryland	Department of Water Resources State Office Building Annapolis, Maryland 21401	New Hampshire	Office of State Planning State House Annex Concord, New Hampshire 03301
Massachusetts	Division of Water Resources Water Resources Commission State Office Building 100 Cambridge Street Boston, Massachusetts 02202	New Jersey	Division of Water Resources Department of Environmental Protection P. O. Box 1390 Trenton, New Jersey 08625
Michigan	Water Resources Commission Bureau of Water Management Stevens T. Mason Building Lansing, Michigan 48926	New Mexico	State Engineer's Office Bataan Memorial Building Santa Fe, New Mexico 87501
Minnesota	Division of Waters, Soils and Minerals Department of Natural Resources Centennial Office Building St. Paul, Minnesota 55101	New York	New York State Department of Environmental Conservation Division of Resource Management Services Bureau of Water Management Albany, New York 12201

North Carolina	North Carolina Office of Water and Air Resources Department of Natural and Economic Resources P. O. Box 27687 Raleigh, North Carolina 27611	South Carolina	South Carolina Water Resources Commission 2414 Bull Street Columbia, South Carolina 29201
North Dakota	State Water Commission State Office Building 900 E. Boulevard Bismarck, North Dakota 58501	South Dakota	South Dakota Planning Agency Pierre, South Dakota 57501
Ohio	Ohio Department of Natural Resources Ohio Departments Building Columbus, Ohio 43215	Tennessee	Tennessee State Planning Commission Room C2-208 Central Services Building Nashville, Tennessee 37219
Oklahoma	Oklahoma Water Resources Board 2241 Northwest Fortieth Street Oklahoma City, Oklahoma 73112	Texas	Texas Water Development Board P. O. Box 13087 Capitol Station Austin, Texas 78711
Oregon	Executive Department State of Oregon Salem, Oregon 97310	Utah	Department of Natural Resources State Capitol Building Salt Lake City, Utah 84114
Pennsylvania	Department of Community Affairs Commonwealth of Pennsylvania Harrisburg, Pennsylvania 17120	Vermont	Division of Planning and Development Water Resources Department State Office Building Montpelier, Vermont 05602
Puerto Rico	Puerto Rico Planning Board 1507 Ponce de Leon Avenue — Stop 22 Santurce, Puerto Rico 00908	Virginia	Division of Water Resources Department of Conservation and Economic Development 2nd Floor Davenport Building 11 South 10th Street Richmond, Virginia 23219
Rhode Island	Rhode Island Statewide Planning Program 265 Melrose Street Providence, Rhode Island 02907	Washington	Department of Ecology Olympia, Washington 98504

West Virginia West Virginia Insurance
 Department
 State Capitol
 Charleston, West Virginia
 25305

Wisconsin Department of Natural
 Resources
 P. O. Box 450
 Madison, Wisconsin 53701

Wyoming Wyoming Disaster and Civil
 Defense Agency
 P. O. Box 1709
 Cheyenne, Wyoming 82001

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Reprinted from Federal Register, 37 F.R. 1036-37
January 22, 1972

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Ad- ministration, Department of Hous- ing and Urban Development

[Docket No. R-71-116]

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Pursuant to section 1305(b) of the National Flood Insurance Act of 1968 (42 U.S.C. section 4012(b), 82 Stat. 574) and section 2 of Public Law 92-213 (85 Stat. 775), the following amendments are made to the regulations of the National Flood Insurance Program.

In accordance with section 1305(a) of the Act, a priority has been previously given to making flood insurance available in eligible communities on dwelling properties designed for the occupancy of from one to four families and on properties owned or leased and operated by small business concerns. The amendments to § 1909.1 and to Part 1911 are intended to expand the existing program by permitting flood insurance coverage to be written on certain types of properties previously ineligible for this insurance. The program as expanded by these amended regulations now includes all properties used for residential, business, religious, and agricultural purposes, properties occupied by nonprofit organizations, and properties owned by State or local governments or agencies thereof.

These amendments are also intended to implement the provisions of section 2 of Public Law 92-213. Section 1909.3 is revised to reflect the statutory extension of the emergency program. Section 1913.1 is amended to reflect the statutory delay in the effective date of subsection 1314 (a) (2) of the National Flood Insurance Act.

Although it is the general policy of the Federal Insurance Administration to propose its regulatory changes for public comment whenever practical and in the public interest, it has been determined that since (1) manuals and forms, reflecting the new regulations, must be printed and distributed to affected companies and producers well in advance of the effective date of the expanded program; and (2) these amendments do not change the nature or structure of the program but merely make additional properties eligible for insurance under the same terms and conditions as have

existed in the past, it is in the public interest to make these amendments effective on March 1, 1972, without formal publication for comment.

Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended as follows:

PART 1909—GENERAL PROVISIONS

§ 1909.1 [Amended]

1. Section 1909.1 is amended by revoking the definitions of "Dwelling" or "dwelling property," "Small Business," and "Small Business Property" and by adding the following definition of "Structure," in the proper alphabetical sequence:

"Structure" means a building which is used for residential, business, agricultural, or religious purposes, or which is occupied by a private nonprofit organization, or which is owned by a State or local government or an agency thereof. The term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

2. Section 1909.3 is amended 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 (Public Law 91-152, Dec. 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, 1973) does not affect the requirement that a community must adopt adequate land use and control measures but permits insurance to be sold before a study is conducted to determine actuarial rates for the community. The amended 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 and/or mudslide hazards. After December 31, 1973, under existing law, no properties can be newly insured or have policies renewed except those in communities for which actuarial rates are available.

PART 1911—INSURANCE COVERAGE AND RATES

3. In the table of contents to Part 1911, §§ 1911.1 and 1911.3 are amended to read as follows:

Sec.

1911.1 Special definition.

1911.3 Types of coverage.

4. Section 1911.1 is revised to read as follows:

§ 1911.1 Special definition.

The definitions set forth in § 1909.1 of this subchapter are applicable to this part except that, for the purposes of this part, "Flood" means 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, or (c) mudslides which are caused or precipitated by accumulations or water on or under the ground.

5. Section 1911.3 is revised to read as follows:

§ 1911.3 Types of coverage.

Insurance coverage under the program is available for structures and the contents thereof. Coverage for each may be purchased separately.

6. In § 1911.5, paragraphs (d), (f), (g), and (h) are amended to read as follows:

§ 1911.5 Special terms and conditions.

(d) Each loss sustained by the insured is subject to a deductible provision under which the insured bears a portion of the loss before payment is made under the policy. The amount of the deductible for each loss occurrence is (1) for structural losses, \$200 or 2 percent of the amount of the loss applicable to the structure, whichever is greater, and (2) for contents losses, \$200 or 2 percent of the amount of the loss applicable to the contents, whichever is greater.

(f) The insured may apply up to, but not in excess of, 10 percent of the face amount of the structural coverage on a property used for residential purposes to appurtenant structures and outbuildings (such as carports, garages, and guest houses).

(g) The following are not insurable under the program: Outdoor swimming pools, bulkheads, wharves, piers, bridges, and docks.

(h) The contents coverage for premises used for residential purposes excludes money and securities, birds or ani-

mals, 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.

* * * * *

7. Section 1911.6 is revised to read as follows:

§ 1911.6 Maximum amounts of coverage available.

The maximum limits of coverage of the policy under the regular program are the following, and the maximum limits of coverage under the emergency program are one-half the following—

(a) For structures used for residential purposes and designed for the occupancy of a single family (including townhouses or rowhouses), which are either separated from other structures by standard firewalls or open space, or contiguous to the ground and customarily regarded as separate structures:

- (1) \$35,000 structural coverage,
- (2) \$10,000 contents coverage, which may be purchased by either the owner or the tenant;

(b) For all other structures:

- (1) \$60,000 structural coverage,
- (2) \$10,000 contents coverage per unit in the case of premises used for residential purposes or \$10,000 contents coverage per occupant in the case of premises used for nonresidential purposes, which may be purchased by either the owner or the tenant.

8. Section 1911.8 is revised to read as follows:

§ 1911.8 Applicability of actuarial rates.

Actuarial rates are applicable to all flood insurance made available for—

(a) Any structure, the construction or substantial improvement of which was started after the Administrator has identified the area in which the property is located as an area having special flood or mudslide hazards under Part 1915 of this subchapter; and

(b) Coverage which exceeds the following limits:

(1) For structures used for residential purposes and designed for the occupancy of a single family (including townhouses or rowhouses), which are either separated from other structures by standard firewalls or open space, or contiguous to the ground and customarily regarded as separate structures:

- (i) \$17,500 structural coverage, and
- (ii) \$5,000 contents coverage; and

(2) For all other structures:

- (i) \$30,000 structural coverage, and
- (ii) \$5,000 contents coverage per unit in the case of premises used for residential purposes or \$5,000 contents coverage per occupant in the case of premises used for nonresidential purposes; and

(c) Any structure or the contents thereof for which the chargeable rates prescribed by this part would exceed the actuarial rates.

9. Section 1911.9 is revised to read as follows:

§ 1911.9 Establishment of chargeable rates.

(a) Pursuant to section 1308 of the Act, chargeable rates per year per \$100 of flood insurance are established as follows for all areas designated by the Administrator under Part 1914 of this subchapter for the offering of flood insurance—

Type of structure	Value of structure	Rate per year per \$100 structural coverage	Rate per year per \$100 contents coverage
(1) Single family residential.	\$17,500 and under..	\$0.40	\$0.50
	17,501-35,000.....	.45	.55
	35,001 and over.....	.50	.60
(2) All other residential.	30,000 and under..	.40	.50
	30,001-60,000.....	.45	.55
	60,001 and over.....	.50	.60
(3) All non-residential (including hotels and motels with normal occupancy of less than six months in duration).	30,000 and under..	.50	1.00
	30,001-60,000.....	.60	1.00
	60,001 and over....	.70	1.00

(b) The contents rate shall be based upon the use of the individual premises for which contents coverage is purchased.

PART 1913—EXEMPTION FROM DENIAL OF FEDERAL DISASTER BENEFITS

10. Section 1913.1 is amended by adding a new sentence at the end thereof, to read as follows:

§ 1913.1 Purpose of part.

* * *. The provisions of subsection 1314 (a) (2) shall not apply to any loss, destruction, or damage of real or personal property that occurs on or before December 31, 1973.

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

11. Section 1914.1(b) is amended to read as follows:

§ 1914.1 Purpose of part.

(b) Section 1336 of the Act authorizes an emergency implementation of the National Flood Insurance Program whereby, for a period ending on December 31, 1973, 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.

Effective date. These amendments shall be effective on March 1, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.
[FR Doc.72-968 Filed 1-21-72;8:46 am]



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Reprinted from Federal Register, 36F.R. 18175-86
September 10, 1971

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Ad- ministration, Department of Hous- ing and Urban Development

[Dockets Nos. R-71-103, R-71-116]

NATIONAL FLOOD INSURANCE PROGRAM

Pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001-4127, 82 Stat. 572, as amended by sections 408-410 of Public Law 91-152, 83 Stat. 396-397) and delegation of authority by the Secretary of Housing and Urban Development (34 F.R. 2680, Feb. 27, 1969), the Federal Insurance Administrator published in the FEDERAL REGISTER notices of proposed rule making in which he proposed to issue regulations pertaining to land management and use in mudslide-prone areas (35 F.R. 19684, Dec. 29, 1970), to the circumstances in which low-income persons are exempt from restrictions against the nonduplication of Federal disaster benefits (36 F.R. 8453, May 6, 1971), and to land management and use in flood-prone areas (36 F.R. 11109, June 9, 1971).

Interested persons were invited to submit comments on all of the proposed rules for a period of at least 30 days after their initial publication. Comments were received from members of Congress, Federal and State agencies, local governments, public interest groups, and individuals. All comments and suggestions have been taken into consideration in the preparation of the final regulations which are hereby adopted.

The principal purpose of these regulations is to prescribe the minimum requirements for adequate land use and control measures for flood-prone and mudslide-prone areas that a community must adopt, based upon the amount of relevant technical data available to it, in order to obtain or to retain flood insurance (which includes coverage against mudslides) eligibility after December 31, 1971.

The format of the regulations differs from the versions originally proposed because of the decision to clarify existing flood insurance program regulations and to incorporate all past and present revisions into a single document. Thus, many editorial changes have been made which do not affect the substance of the previous regulations. Principal changes in the adopted regulations from those previously proposed are as follows:

In § 1909.1 some definitions were changed to treat mudslides separately from floods, and other definitions were added or modified for clarity. A descrip-

tion of the flood insurance program has been added to Part 1909, and Subpart B of Part 1910, dealing with community eligibility, has been transferred to Part 1909, and editorially revised. A new § 1909.24 has been added to clarify the manner in which suspensions of flood insurance eligibility will be handled for communities that automatically lose their eligibility under the requirements of the Act.

Since the comments revealed that some communities may not be able to comply with all of the proposed land use criteria, especially the 100-year flood standard, Subpart A of Part 1910, in addition to prescribing minimum land use criteria, specifically provides in § 1910.5 for a community to adopt land use and control measures not fully consistent with the requirements of that subpart, provided that it submits an explanation of the measures which do not comply with such requirements and the reasons for its proposed non-compliance. Section 1910.5 provides that at the time of receipt, the Administrator will presume that the measures adopted by a community are adequate in light of local conditions (unless the ordinances appear deficient on their face), subject to subsequent review to determine their actual adequacy. If at a subsequent time the measures are found deficient, the Administrator will give the community a reasonable period of time to correct the inadequacy in order to retain eligibility for flood insurance.

The proposed requirements for specific building materials previously listed in § 1910.9 have been deleted because comments were received indicating that such specificity was unnecessary, that some of them were unrealistic (e.g., all insulation material absorbs water to some degree), and that in some areas it would be less expensive to replace damaged portions of the structure than to follow the specific requirements of the proposed regulations.

Pursuant to Public Law 91-190, and Executive Order 11514 (35 F.R. 4247-48, March 7, 1970), it has been determined that the action taken by these regulations has no adverse impact on the environment. The regulations in §§ 1910.3 and 1910.4 set forth the criteria to be followed by communities in enacting or adopting land management measures in order to participate in the National Flood Insurance Program. The overall purpose of these criteria is to encourage only that development of flood-prone or mudslide-prone areas that is appropriate in light of the probability of flood damage and the need to reduce flood losses, that represents an acceptable social and economic use of the land in relation to the hazards involved, and that does not increase the danger to human life; and

to discourage all other development.

In accordance with the provisions of 5 U.S.C. 553(d), it has been determined to be in the public interest to make the regulations effective upon publication. Accordingly, Subchapter B of Chapter VII of 24 CFR is revised to read as follows:

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1909—GENERAL PROVISIONS

Subpart A—General

- Sec.
1909.1 Definitions.
1909.2 Description of program.
1909.3 Emergency program.

Subpart B—Eligibility Requirements

- 1909.21 Purpose of subpart.
1909.22 Prerequisites for the sale of flood insurance.
1909.23 Priorities for the sale of flood insurance under the regular program.
1909.24 Suspensions of community eligibility.

AUTHORITY: The provisions of this Part 1909 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969.

Subpart A—General

§ 1909.1 Definitions.

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 the insurance premiums payable, losses incurred, premium equalization and reinsurance payments due, and operating costs and allowances attributable with respect to all policies issued under the program during the accounting period.

"Act" means the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001-4127.

"Actuarial rates" means the risk premium rates, estimated by the Administrator for individual communities pursuant to studies and investigations undertaken by him in accordance with section 1307 of the Act in order to provide flood insurance in accordance with accepted actuarial principles. Actuarial rates also contain provision for operating costs and allowances.

"Actuarial rate zone" means a zone identified on a Flood Insurance Rate Map as subject to a specified degree of flood or mudslide 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 F.R. 2680-81, Feb 27, 1969).

"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 whose legislative body has indicated a desire to participate in the National Flood Insurance Program.

"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.

"Chargeable rates" means the reasonable premium rates, estimated by the Administrator in accordance with section 1308 of the Act, which are established in order to encourage the purchase of flood insurance.

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

"Community" means any State or political subdivision thereof with authority to adopt and enforce land use and control measures for the areas within its jurisdiction.

"Criteria" means the comprehensive criteria for land use and control measures developed under section 1361 of the Act for the purposes set forth in §§ 1910.21 and 1910.42 of this subchapter.

"Deductible" means the fixed amount or percentage of any loss not covered by an insurance policy. 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, DC 20410.

"Dwelling" or "dwelling property" means a structure designed for the occupancy of from one to four families, including such a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

"Eligible community" means a community in which the Administrator has authorized the sale of flood insurance under the program.

"Emergency Flood Insurance Map" means an official map on which the Ad-

ministrator has delineated one or more areas eligible for the sale of insurance under the Emergency Flood Insurance Program.

"Emergency Flood Insurance Program" or "emergency program" means the National Flood Insurance Program authorized by the Act, as implemented on an emergency basis and without the need for individual community rate-making studies, in accordance with section 1336 of the Act, 42 U.S.C. 4056.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of streams, rivers, or other inland water, or (b) abnormally high tidal water or rising coastal waters resulting from severe storms, hurricanes, or tsunamis.

"Flood Hazard Boundary Map" means an official map or plat of a community, issued or approved by the Administrator, on which the boundaries of the flood plain and/or mudslide areas having special hazards have been drawn. This map must conform to the Special Flood Hazard Map and be of sufficient scale and clarity to permit the ready identification of individual building sites as either within or without the area having special flood hazards.

"Flood insurance" means insurance coverage for both floods and mudslides under the program.

"Flood Insurance Rate Map" 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 a land area adjoining a river, stream, watercourse, ocean, bay, or lake, which is likely to be flooded.

"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 being flooded each 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 land use and control measures.

"Floodproofing" means any combination of structural and nonstructural 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 required to carry and discharge a flood of a given magnitude.

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

"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 au-

thorized to engage in the insurance business under the laws of any State.

"Land use and control measures" means zoning ordinances, subdivision regulations, building codes, health regulations, and other applications and extensions of the normal police power, to provide standards and effective enforcement provisions for the prudent use and occupancy of flood-prone and mudslide areas.

"Mudslide" means a general and temporary movement down a slope of a mass of rock or soil, artificial fill, or a combination of these materials, caused or precipitated by the accumulation of water on or under the ground.

"Mudslide area" or "mudslide-prone area" means an area characterized by unstable slopes and land surfaces, whose history, geology, soil and bedrock structure, and climate indicate a potential for mudslides.

"Mudslide area having special mudslide hazards" means a mudslide area with a high potential for mudslides.

"Mudslide area management" means the operation of an overall program of corrective and preventive measures for reducing mudslide damage, including but not limited to emergency preparedness plans, mudslide control works, and land use and control measures.

"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 located at 160 Water Street, New York, NY 10038.

"100-year flood" means the highest level of flooding that, on the average, is likely to occur once every 100 years (i.e., that has a 1-percent chance of occurring each year).

"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 the Act, including its required coordination with land management programs in flood-prone areas under both the 1968 Act (regular program) and the 1969 amendment adding section 1336 (emergency program) to the Act.

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

"Small business" means a concern which together with its affiliates does not have assets exceeding \$5 million, does not have a net worth in excess of \$2½ million, and does not have an average net income after Federal income taxes for the preceding 2 fiscal years in excess of \$250,000 (average net income to be computed without benefit of any carryover loss).

"Small business property" means a structure owned or leased and operated by a small business, including hotels and motels primarily used for transient occupancy of less than 6 months but excluding all other residential properties. The term includes such a structure while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

"Special Flood Hazard Map" means the official map designated by the Administrator to identify (a) flood plain areas having special flood hazards, and/or (b) mudslide areas having special mudslide hazards.

"Standard Flood Insurance Policy" means a standard contract or policy by means of which flood insurance coverage under the program is made available to an insured by the Association. The form of the policy, as well as its terms and conditions, is approved by the administrator and is uniform with respect to all areas.

"Start of construction" means the first placement of permanent construction on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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, or the affixing of any prefabricated structure or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, grading, filling; excavation for basement, footings, piers, or foundations; erection of temporary forms; the installation of piling under proposed subsurface footings; installation of sewer, gas, and water pipes; or electric or other service lines from the street; or existence on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not a part of the main structure.

"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.

"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 (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 started when the first alteration of any structural part of the building commences.

"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.

§ 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 (Public Law 90-448, August 1, 1968) to provide previously unavailable flood

insurance protection to property owners in flood-prone areas. Mudslide protection was added to the program by the Housing and Urban Development Act of 1969 (Public Law 91-152, December 24, 1969). 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. In many cases, the Federal subsidy amounts to more than 90 percent of the cost of the insurance.

(b) In order to qualify for the sale of federally subsidized flood insurance before December 31, 1971, a community must agree to adopt and enforce adequate land use and control measures, consistent with Federal criteria (set forth in Part 1910 of this subchapter) by that date. Such measures must be designed to reduce or avoid future flood or mudslide damage and include effective enforcement provisions. Federal flood insurance may not be sold after December 31, 1971, in any community that has not by that date adopted the required local ordinances. Section 1909.24 provides for the reinstatement of eligibility in communities that adopt such measures after that date.

(c) Communities that do not initially qualify for the sale of insurance by December 31, 1971, must adopt and submit the required land use and control measures to the Administrator as part of their application. If the measures submitted appear to be consistent with Subpart A of Part 1910 of this subchapter, they will be accepted, subject to more detailed subsequent review and/or the availability of additional technical information.

(d) Minimum requirements for adequate land use and control measures are set forth in § 1910.3 of this subchapter for flood-prone areas and in § 1910.4 of this subchapter for mudslide areas. Each community must meet the applicable requirements, which are based on the amount of technical information available to the community. A flood-prone community must control development within the area of the 100-year flood unless it is determined for good cause that such a standard would not be economically and socially desirable and would unreasonably curtail its future growth and vitality. If the community in good faith makes such a determination, it must submit the ordinances it has adopted, together with economic and technical justification for the lesser standards they contain, to the Administrator for his review in accordance with § 1910.5 of this subchapter. If the Administrator does not concur in the community's determinations, he will inform the community of the modifications it must make in its measures and give it a specified period of time to make the required modifications. During this period the community's eligibility for the sale of flood insurance will be unaffected.

§ 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 (Public Law 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 authorized for the 2-year period ending December 31, 1971) does not affect the requirement that a community must adopt adequate land use and control measures but permits insurance to be sold before a study is conducted to determine actuarial rates for the community. The amended 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 and/or mudslide hazards. After December 31, 1971, under existing law, no properties can be newly insured or have policies renewed except those in communities for which actuarial rates are available.

Subpart B—Eligibility Requirements

§ 1909.21 Purpose of subpart.

This subpart lists actions that must be taken by a community to become eligible and to remain eligible for the flood insurance program.

§ 1909.22 Prerequisites for the sale of flood insurance.

(a) In order to qualify for Federal flood insurance a community must apply for eligibility for the entire area within its jurisdiction, and must submit—

(1) Copies of official legislative and executive actions indicating a local need for flood insurance and an explicit desire to participate in the Federal Flood Insurance Program;

(2) Citations to State and local statutes and ordinances authorizing actions regulating land use and copies of the local laws and regulations cited;

(3) A summary of State and local public and private flood plain or mudslide area management measures, if any, that have been adopted for the flood plain areas and/or mudslide areas in the community. This submission may be in any suitable form, but should list or enclose copies of easements, zoning, building, and subdivision regulations, health codes, and other corrective and preventive measures instituted to reduce or prevent flood or mudslide damage;

(4) A large-scale map of the entire area under the community's jurisdiction, identifying local flood plain areas and mudslide areas, if any, and showing the names of rivers, bays, gulfs, lakes, and similar bodies of water that cause floods;

(5) A brief summary of the community's history of flooding and/or mudslides and the characteristics of its flood plain and/or mudslide areas, if available, including the locations of any known high water marks and/or mudslide occurrences. A current flood plain information report prepared by the U.S. Army Corps of Engineers or a similar report will satisfy the requirements of this subparagraph and the preceding subpara-

graph with respect to flood plain areas;

(6) A clean map of the community, preferably in black and white, clearly delineating its corporate limits, which can be reproduced for publication. If the best available map is copyrighted, a letter of release must be obtained;

(7) A list of the incorporated communities within the applicant's boundaries (if the application is made on behalf of a county or a political subdivision containing more than one incorporated community);

(8) Estimates relating to the flood-prone area concerning:

(i) Population,

(ii) Number of one to four family residences,

(iii) Number of small businesses;

(9) Address of a local repository, such as a municipal building, where the flood insurance and flood hazard maps will be made available for public inspection;

(10) If applying before December 31, 1971, a commitment to adopt by that date and maintain in force for areas having special flood and/or mudslide hazards adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Part 1910 of this subchapter;

(11) If applying after December 31, 1971, a copy of the land use and control measures the community has adopted in order to meet the requirements of §1910.3 and/or §1910.4 of this subchapter;

(12) A commitment to recognize and duly evaluate flood and/or mudslide hazards in all official actions relative to land use in the areas having special flood and/or mudslide 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 and/or mudslide 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 and/or mudslide area;

(iii) Maintain for public inspection and furnish upon request, with respect to each area having special flood hazards, information on elevations (in relation to mean sea level) of the lowest floors of all new or substantially improved structures and, where there is a basement, the distance between the first floor and the bottom of the lowest opening where water flowing on the ground will enter; and

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

(b) An applicant must also legislatively—

(1) Appoint or designate an agency or official with the responsibility, authority, and means to implement the

commitments made in paragraph (a) of this section; and

(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 and/or mudslide area management measures.

(c) The documents required by paragraph (a) of this section and evidence of the actions required by paragraph (b) of this section must be submitted to the Federal Insurance Administrator, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

§ 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 ratemaking 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 and/or the mudslide area;

(c) Availability of information on the community with respect to its flood and/or mudslide 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 and/or mudslide area management, including actual adoption of land use and control regulations consistent with related ongoing programs in the area.

§ 1909.24 Suspensions of community eligibility.

(a) A community eligible for the sale of flood insurance which fails to provide official notice to the Administrator by December 31, 1971, that it has adopted land use and control measures for its flood-prone and mudslide-prone areas in accordance with the requirements of Subpart A of Part 1910 of this subchapter shall automatically lose its eligibility at midnight on that date. A community which provides such official notice but fails to submit the required land use and control measures to the Administrator by January 15, 1972, for review shall automatically lose its eligibility at midnight on that date. The community's eligibility shall remain terminated until the land use and control measures have been received by the Administrator.

(b) The Administrator shall promptly notify the Association of those communities whose eligibility has been suspended, and the Association shall promptly so notify its servicing companies. Flood insurance shall not be sold or renewed in any suspended community until the Association is subsequently notified by the Administrator of the date of the community's formal reinstatement. Policies

sold or renewed within a community during a period of ineligibility shall be deemed void and unenforceable whether or not the parties to the sale or renewal had actual notice of the ineligibility.

(c) Communities eligible for the sale of flood insurance after December 31, 1971, shall not thereafter lose their eligibility because of the inadequacy of the land use and control measures they have adopted except upon 30 days' prior written notice and publication in the FEDERAL REGISTER.

PART 1910—CRITERIA FOR LAND MANAGEMENT AND USE

Subpart A—Requirements for Land Use and Control Measures

Sec.

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Subpart B—Additional Considerations in Managing Flood-Prone and Mudslide-Prone Areas

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1910.23 Planning considerations for flood-prone areas.

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1910.25 State coordination.

1910.26 Local coordination.

AUTHORITY: The provisions of this Part 1910 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969.

§ 1910.1 Purpose of subpart.

(a) Section 1315 of 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 land use and control measures 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 section 1361 of the Act by which the Administrator will determine the adequacy of a community's land use and control measures. These measures must be applied uniformly throughout the community to all privately and publicly owned land within flood-prone or mudslide areas. Except as otherwise provided in § 1910.5, the adequacy of such measures shall be determined on the basis of the standards set forth in § 1910.3 for flood-prone areas and in § 1910.4 for mudslide 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 and mudslide hazards, to the extent that

they are known, in all official actions relating to land use and control.

§ 1910.2 Minimum compliance with land management criteria.

(a) A flood-prone community which becomes eligible for sale of flood insurance prior to December 31, 1971, must have land use and control measures in effect by that date which at least meet the requirements of § 1910.3(a) in order to remain eligible after that date. In addition, the community must meet the respective requirements of § 1910.3 (b), (c), (d), or (e) within 6 months from the date it receives the data required for compliance with the applicable paragraph or by December 31, 1971, whichever is later.

(b) A flood-prone community applying for flood insurance eligibility after December 31, 1971, must meet the standards of § 1910.3(a) in order to become eligible. Thereafter, the community will be given a period of 6 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.

(c) A mudslide-prone community which becomes eligible for sale of flood insurance prior to December 31, 1971, must have land use and control measures in effect by that date which meet the requirements of § 1910.4(a) to remain eligible after that date. In addition, the community must meet the requirements of § 1910.4(b) within 6 months after the date its mudslide areas having special mudslide hazards are delineated or by December 31, 1971, whichever is later.

(d) A mudslide-prone community applying for flood insurance eligibility after December 31, 1971, must meet the standards of § 1910.4(a) in order to become eligible for such insurance. Thereafter, the community will be given a period of 6 months from the date the mudslide areas having special mudslide hazards are delineated in which to meet the requirements of § 1910.4(b).

(e) Communities identified in Part 1915 of this subchapter as containing both flood plain areas having special flood hazards and mudslide areas having special mudslide hazards must adopt land use and control measures for each type of hazard consistent with the requirements of §§ 1910.3 and 1910.4.

(f) Local flood and mudslide land use and control measures 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 and to other appropriate State and local bodies, and shall inform the Administrator of the agencies to which the annual reports are sent.

§ 1910.3 Required land use and control measures for flood-prone areas.

The Administrator generally will provide the data upon which land use and control measures must be based. If the Administrator has not provided suffi-

cient data to furnish a basis for these measures in a particular community, the community may initially use hydrologic 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 and water surface elevations have been furnished by the Administrator, they shall apply. In all cases the minimum requirements governing the adequacy of the land use and control measures 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 declared an entire community a flood plain area having special flood hazards and has not defined the special flood hazard areas more precisely, 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—

(1) Require building permits for all proposed construction or other improvements in the community;

(2) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must (i) be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, (ii) use construction materials and utility equipment that are resistant to flood damage, and (iii) use construction methods and practices that will minimize flood damage;

(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, elevated, and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided so as to reduce exposure to flood hazards; and

(4) Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems 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 flooding.

(b) When the Administrator has identified the flood plain area having special flood hazards, but has produced neither water surface elevation data nor data sufficient to identify the floodway or coastal high hazard area, the minimum land use and control measures adopted by the community for the flood plain must—

(1) Take into account flood plain management programs, if any, already in effect in neighboring areas;

(2) Apply at a minimum to all areas identified by the Administrator as flood

plain areas having special flood hazards;

(3) Provide that within the flood plain area having special flood hazards, the laws and ordinances concerning land use and control and other measures designed to reduce flood losses shall take precedence over any conflicting laws, ordinances, or codes;

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

(5) Review building permit applications for major repairs within the flood plain area having special flood hazards to determine that the proposed repair (i) uses construction materials and utility equipment that are resistant to flood damage, and (ii) uses construction methods and practices that will minimize flood damage;

(6) Review 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 and mobile homes) (i) is protected against flood damage, (ii) is designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure, (iii) uses construction materials and utility equipment that are resistant to flood damage, and (iv) uses construction methods and practices that will minimize flood damage;

(7) 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, elevated, and constructed to minimize or eliminate flood damage, and (ii) adequate drainage is provided so as to reduce exposure to flood hazards; and

(8) Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems 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 flooding.

(c) When the Administrator has identified the flood plain area having special flood hazards, and has provided water surface elevations for the 100-year flood, but has not provided data sufficient to identify the floodway or coastal high hazard area, the minimum land use and control measures adopted by the community for the flood plain must—

(1) Meet the requirements of paragraph (b) of this section;

(2) Require new construction or substantial improvements of residential structures within the area of special flood hazards to have the lowest floor (including basement) elevated to or above the level of the 100-year flood;

(3) Require new construction or substantial improvements of non-residential structures within the area of special flood hazards 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 facili-

ties, to be floodproofed up to the level of the 100-year flood; and

(4) In riverine situations, provide that until a floodway has been designated, no use, including land fill, may be permitted within the flood plain area having special flood hazards unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and anticipated uses, will not increase the water surface elevation of the 100-year flood more than 1 foot at any point.

(d) When the Administrator has identified the riverine flood plain area having special flood hazards, has provided water surface elevation data for the 100-year flood, and has provided floodway data, the land use and control measures adopted by the community for the flood plain must—

(1) Meet the requirements of paragraph (b) of this section;

(2) Require new construction or substantial improvements of residential structures within the area of special flood hazards to have the lowest floor (including basement) elevated to or above the level of the 100-year flood;

(3) Require new construction or substantial improvements of nonresidential structures within the area of special flood hazards 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 floodproofed up to the level of the 100-year flood;

(4) Designate a floodway for passage of the water of the 100-year flood. The selection of the floodway shall be based on the principle that the area chosen for the floodway must be designed to carry the waters of the 100-year flood, without increasing the water surface elevation of that flood more than 1 foot at any point;

(5) Provide that existing nonconforming uses in the floodway shall not be expanded but may be modified, altered, or repaired to incorporate floodproofing measures, provided such measures do not raise the level of the 100-year flood; and

(6) Prohibit fill or encroachments within the designated floodway that would impair its ability to carry and discharge the waters resulting from the 100-year flood, except where the effect on flood heights is fully offset by stream improvements.

(e) When the Administrator has identified the coastal flood plain area having special flood hazards, has provided water surface elevation data for the 100-year flood, and has identified the coastal high hazard area, the land use and control measures adopted by the local government for the flood plain must—

(1) Meet the requirements of paragraph (b) of this section;

(2) Require new construction or substantial improvements of residential structures within the area of special flood hazards to have the lowest floor (including basement) elevated to or above the level of the 100-year flood;

(3) Require new construction or substantial improvements of nonresidential structures within the area of special flood hazards 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 floodproofed up to the level of the 100-year flood;

(4) Provide that existing uses located on land below the elevation of the 100-year flood in the coastal high hazard area shall not be expanded; and

(5) Provide that no land below the level of the 100-year flood in a coastal high hazard area may be developed unless the new construction or substantial improvement (i) is located landward of the reach of the mean high tide, (ii) is elevated on adequately anchored piles or columns to a lowest floor level at or above the 100-year flood level and securely anchored to such piles or columns, and (iii) has no basement and has the space below the lowest floor free of obstructions so that the impact of abnormally high tides or wind-driven water is minimized.

§ 1910.4 Required land use and control measures for mudslide areas.

The Administrator generally will provide the data upon which land use and control measures must be based. If the Administrator has not provided sufficient data to furnish a basis for these measures 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 and other relevant technical data have been furnished by the Administrator, they shall apply. In all cases the minimum requirements governing the adequacy of the land use and control measures for mudslide-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 identified a community as containing mudslide areas having special mudslide hazards, but has not delineated the areas having special mudslide hazards, the community must—

(1) Require the issuance of a permit for any excavation, grading, fill, or construction in the community; and

(2) Require review of each permit application to determine whether the proposed site and improvements will be reasonably safe from mudslides. If a proposed site and improvements are in a location that may have mudslide hazards, a further review must be made by persons qualified in geology and soils engineering; and the proposed new construction, substantial improvement, or grading must (i) be adequately protected against mudslide damage and (ii) not aggravate the existing hazard.

(b) When the Administrator has delineated the mudslide areas having special mudslide hazards within a community, the community must (1) meet the requirements of paragraph (a) of this section and (2) adopt and enforce as a minimum within such area or areas the provisions of the 1970 edition 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, CA 91101.

§ 1910.5 Exceptions because of local conditions.

(a) The requirement that each community must have adopted adequate land use and control measures (consistent with the criteria set forth in this subpart) on or before December 31, 1971, is statutory and cannot be waived. However, the Administrator recognizes that exceptional local conditions may render the adoption of a 100-year flood standard or other standards contained in this subpart premature or uneconomic for a particular community. Consequently, to meet the December 31, 1971, statutory deadline, a community may elect standards of protection which do not fully meet the requirements of § 1910.3 or § 1910.4, subject to the provisions of this section.

(b) All local land use and control measures intended to meet the requirements of this subpart shall be submitted to the Administrator after their adoption. If the adopted ordinances appear to reflect compliance with the requirements of this subpart, they will initially be accepted by the Administrator (without detailed examination) in satisfaction of such requirements, and the sale of flood insurance will be continued or approved for the community submitting them. If the Administrator subsequently determines that the adopted land use and control measures are inadequate, either in general or in some particular aspect, he may require their modification within a specified period of time to meet the requirements of this subpart as a condition of the community's further eligibility for flood insurance.

(c) A community that finds it necessary to adopt land use and control measures which vary from the standards set forth in § 1910.3 or § 1910.4 shall, as a condition of initial acceptance of such measures by the Administrator, explain in writing the nature and extent of the variances and the reasons for their adoption and shall include supporting economic, topographic, hydrologic, and other technical data.

§ 1910.6 Revisions of criteria for land use and control.

From time to time the regulations of Part 1910 for land management and use 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 local ordinances to comply with any such changes.

Subpart B—Additional Considerations in Managing Flood-Prone and Mudslide-Prone Areas

§ 1910.21 Purpose of subpart.

The purpose of this subpart is to encourage the formulation and adoption of overall comprehensive management plans for flood-prone and mudslide-prone areas.

§ 1910.22 State and local development goals.

State and local flood plain and mudslide area land use and control measures should contribute to social and economic development goals by:

(a) Diverting unwarranted and unwise development away from flood-prone and mudslide-prone areas;

(b) Encouraging flood and mudslide 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 and mudslide-prone areas; and

(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.

§ 1910.23 Planning considerations for flood-prone areas.

(a) The goals of the land use and control measures adopted by a community for flood plain 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; and

(2) To discourage all other development.

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

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

(2) Possibilities of reserving flood-prone areas for open space purposes;

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

(4) How to encourage floodproofing to reduce the flood hazard;

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

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

(7) Need to establish minimum floodproofing and access requirements for schools, hospitals, nursing homes, penal institutions, fire stations, police stations, communications centers, water and sewerage 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;

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

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

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

(11) State and local water pollution control requirements;

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

(13) For coastal areas, the need to establish programs for building bulkheads, seawalls, breakwaters, and other damage abatement structures, and for preserving natural barriers to flooding, such as sand dunes and vegetation.

§ 1910.24 Planning considerations for mudslide-prone areas

The planning process for areas identified in Part 1915 of this subchapter as containing mudslide 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 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 hazards;

(c) The means of avoiding the hazard, including the (1) availability of land which is not mudslide-prone and the feasibility of developing such land instead of further encroaching upon mudslide 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 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 hazards and prevent their aggravation;

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

(f) Planning subdivisions and other developments in such a manner as to avoid exposure to mudslide 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 area, to enable them to withstand mudslide

damage and to facilitate emergency operations; and

(h) Provision for emergencies, including (1) warning, evacuation, abatement, and access procedures in the event of mudslides, (2) enactment of public measures and initiation of private procedures to limit danger and damage from continued or future mudslides, (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.

§ 1910.25 State coordination.

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

(1) Enacting land use and control measures which regulate flood plain and mudslide area land use;

(2) Enacting where necessary, legislation to enable counties and municipalities to regulate flood plain and mudslide area land use;

(3) Designating an agency of the State government to be responsible for coordinating Federal, State, and local aspects of flood plain and mudslide area management activities in the State;

(4) Assisting in the delineation of mudslide areas, riverine floodways, and coastal high hazard areas and providing all relevant technical data to the Administrator;

(5) Establishing minimum State flood plain and mudslide regulatory standards consistent with those established in this part;

(6) Guiding and assisting municipal and county public bodies and agencies in developing flood plain and mudslide area management plans and land use and control measures;

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

(8) Communicating flood plain and mudslide area information to local governments and to the general public;

(9) Participating in flood and mudslide warning and emergency preparedness programs;

(10) Assisting communities in disseminating information on minimum elevations for structures permitted in flood plain and mudslide areas having special hazards;

(11) 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 and mudslide hazards;

(12) Requiring that proposed uses of flood plain and mudslide-prone areas conform to standards established by State environmental and water pollution control agencies to assure that proper safeguards are being provided to prevent pollution; and

(13) 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 and mudslide-prone areas.

(b) For States whose flood plain management programs 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; and

(2) Seek State approval of local flood plain and mudslide area land use and control measures before finally accepting such measures as meeting the requirements of this part.

§ 1910.26 Local coordination.

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

(b) A locality adopting land use and control measures 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 and mudslide area management practices.

PART 1911—INSURANCE COVERAGE AND RATES

Sec.

- 1911.1 Special definitions.
- 1911.2 Purpose of part.
- 1911.3 Types of properties eligible for coverage.
- 1911.4 Limitations on coverage.
- 1911.5 Special terms and conditions.
- 1911.6 Maximum amounts of coverage available.
- 1911.7 Premium rate determinations.
- 1911.8 Applicability of actuarial rates.
- 1911.9 Establishment of chargeable rates.
- 1911.10 Minimum policyholder premiums.

AUTHORITY: The provisions of this Part 1911 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969.

§ 1911.1 Special definitions.

The definitions set forth in § 1909.1 of this subchapter are applicable to this part except that, for the purposes of this part—

(a) “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters, (2) the unusual and rapid accumulation or runoff of surface waters from any source, or (3) mudslides which are caused or precipitated by accumulations of water on or under the ground; and

(b) “Eligible dwelling” means a residential structure (including a townhouse or rowhouse) containing four units or less, which is either (1) separated from

other structures by standard firewalls or open space, or (2) contiguous to the ground and customarily regarded as a separate structure. The term does not include apartment, cooperative, or condominium complexes containing more than four units, whether or not such units have separate legal titles, except where such units comply with (1) or (2) of the preceding sentence.

§ 1911.2 Purpose of part.

This part describes the types of properties eligible for flood insurance coverage under the program, the limits of such coverage, and the premium rates actually to be paid by insureds. The specific communities eligible for coverage are designated by the Administrator from time to time as applications are approved under the emergency program and as individual ratemaking studies are completed under the regular program. Lists of such communities are periodically published under Part 1914 of this subchapter.

§ 1911.3 Types of properties eligible for coverage.

(a) Insurance coverage for structures under the program is currently available only for eligible dwellings and for small business properties, as defined in § 1909.1 of this subchapter and § 1911.1. It is expected that coverage for other classes of properties will become available at a later date if it appears that the overall purposes of the program, including the adoption by communities of adequate land use and control measures, are being accomplished.

(b) Insurance coverage for contents is available only for the contents of eligible dwellings and small business properties but may be purchased separately from structural coverage.

(c) Only businesses that meet the definition of small business in § 1909.1 of this subchapter may purchase insurance for a small business property.

(d) A business concern may represent in its application for insurance that it is a small business. In the absence of information which would cause the National Flood Insurers Association to question the self-certification, the Association will accept it at face value. However, such representation is subject to review by the Association after the occurrence of a loss but prior to the settlement of a claim. If the insured cannot show that it qualified as a small business at the time of application, the Association may deny the claim and retain all or that portion of the premium necessary to meet the costs of investigating and processing the claim.

§ 1911.4 Limitations on coverage.

(a) All flood insurance made available under the program is subject—

(1) To the terms and conditions of the Standard Flood Insurance Policy, which shall be approved by the Administrator as to both substance and form;

(2) To the specified limits of coverage set forth in the Application and Declarations page of the policy; and

(3) To the maximum limits of coverage set forth in § 1911.6.

(b) Insurance under the program is available only for loss due to flood, as

defined in § 1911.1. The policy covers damage from a general condition of flooding or mudslides in the area which results from other than natural causes, such as the breaking of a dam, but does not cover water or mudslide damage which results from causes on the insured's own property or within his control or from any condition which causes flooding or mudslide damage which 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 or 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. It does not cover losses caused by erosion.

(d) The policy protects against loss to contents only at the location described in the application, except that contents necessarily removed from the premises for preservation from a flood or mudslide are protected against loss or damage from flood or mudslide at the new location pro rata for a period of 30 days.

§ 1911.5 Special terms and conditions.

The following terms and conditions of the Standard Flood Insurance Policy should be especially noted—

(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 or mudslide area management or control law, regulation, or ordinance.

(b) In order to reduce the administrative costs of the program, of which the Federal Government pays a major share, payment of the full policyholder premium must be made at the time of application.

(c) Because of the seasonal nature of flooding, refunds of premiums upon cancellation of coverage by the insured are permitted only if he ceases to have an ownership interest in the covered property at the location described in the policy.

(d) Each loss sustained by the insured is subject to a deductible provision under which the insured bears a portion of the loss before payment is made under the policy. The amount of the deductible for each loss occurrence is (1) for structural losses, \$200 or 2 percent of the amount of coverage applicable to the structure, whichever is greater, and (2) for contents losses, \$200 or 2 percent of the amount of coverage applicable to the contents, whichever is greater.

(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 or mudslide occurrence, but all losses arising out of a continuous or protracted occurrence are deemed to have arisen out of a single occurrence.

(f) The insured may apply up to, but not in excess of, 10 percent of the face amount of the structural coverage under a dwelling policy to appurtenant structures and outbuildings (such as carports,

garages, and guest houses) if they do not constitute separate properties. If any such building constitutes a separate dwelling or small business property, it must be insured under a separate policy.

(g) The following are not insurable under the program: Outdoor swimming pools, boathouses, bulkheads, wharves, piers, and docks.

(h) The contents coverage for dwelling properties excludes money and securities, birds or 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.

(i) The policy on an eligible property may be canceled by the insurer only for nonpayment of premium. However, any willful misrepresentation or concealment of any material fact by the insured at any time voids the entire policy as of the date the wrongful act was committed.

§ 1911.6 Maximum amounts of coverage available.

The maximum limits of coverage of the policy under the regular program are the following, and the maximum limits of coverage under the emergency program are one-half the following—

(a) For dwelling properties containing only one unit:

(1) \$35,000 structural coverage,
(2) \$10,000 contents coverage, which may be purchased by the owner or the tenant;

(b) For dwelling properties containing two to four units:

(1) \$60,000 aggregate structural coverage,

(2) \$10,000 contents coverage for each unit, which may be purchased by the owner or the tenant;

(c) For small business properties:
(1) \$60,000 aggregate structural coverage,

(2) \$10,000 contents coverage for contents related to the premises of each small business occupant.

§ 1911.7 Premium rate determinations.

(a) Pursuant to section 1307 of the Act, the Administrator is authorized to undertake studies and investigations to enable him to estimate the risk premium rates necessary to provide flood insurance in accordance with accepted actuarial principles, including applicable operating costs and allowances. Such rates are referred to in this subchapter as "actuarial rates."

(b) The Administrator is also authorized to estimate the rates which can reasonably be charged to insureds in order to encourage them to purchase the flood insurance made available under the program. Such rates are referred to in this subchapter as "chargeable rates." Generally, for areas having special flood hazards, chargeable rates are considerably lower than actuarial rates.

§ 1911.8 Applicability of actuarial rates.

Actuarial rates are applicable to all flood insurance made available for—

(a) Any property, the construction or substantial improvement of which was started after the Administrator has identified the area in which the property is located as an area having special flood

or mudslide hazards under Part 1915 of this subchapter; and

(b) Coverage which exceeds the following limits:

(1) For dwelling properties (i) \$17,500 aggregate liability for any property containing only one unit, (ii) \$30,000 for any property containing more than one unit, and (iii) \$5,000 aggregate liability per unit for any contents related to such unit; and

(2) For a small business property (i) \$30,000 for the structure, and (ii) \$5,000 for contents for each small business occupant; and

(c) Any eligible property for which the chargeable rates prescribed by this part would exceed the actuarial rates.

§ 1911.9 Establishment of chargeable rates.

(a) Pursuant to section 1308 of the Act, chargeable rates per year per \$100 of flood insurance are established as shown in the following table for all areas designated by the Administrator under Part 1914 of this subchapter for the offering of flood insurance—

Type of structure	Value of structure	Rate per year per \$100 coverage on structure	Rate per year per \$100 coverage on contents
(1) Single unit dwelling	\$17,500 and under	\$0.40	\$0.50
	\$17,501-\$35,000	.45	.55
	\$35,001 and over	.50	.60
(2) Two-to-four unit dwelling	\$30,000 and under	.40	.50
	\$30,001-\$60,000	.45	.55
	\$60,001 and over	.50	.60
(3) Small business property	\$30,000 and under	.50	1.00
	\$30,001-\$60,000	.60	1.00
	\$60,001 and over	.70	1.00

§ 1911.10 Minimum policyholder premiums.

The minimum policyholder premium required for any policy, regardless of the amount of coverage, is \$25. The minimum policyholder premium required for any added coverage or increase in the amount of coverage during the term of an existing policy is \$4, regardless of the length of the unexpired term of the policy at the time of the change.

PART 1912—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Subpart A—Issuance of Policies

- Sec.
1912.1 Purpose of part.
1912.2 National Flood Insurers Association.
1912.3 Limitations on sale of policies.

Subpart B—Claims Adjustment and Judicial Review

- 1912.21 Claims adjustment.
1912.22 Judicial review.

AUTHORITY: The provisions of this Part 1912 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410 Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969.

Subpart A—Issuance of Policies

§ 1912.1 Purpose of part.

The purpose of this part is to set forth the manner in which flood insurance

under the program is made available to the general public in those communities designated as eligible for the sale of insurance under Part 1914 of this subchapter, and to prescribe the general method by which claims for losses are paid.

§ 1912.2 National Flood Insurers Association.

(a) Pursuant to sections 1331 and 1332 of the Act, the Administrator has entered into the agreement with the Association to authorize it to provide the flood insurance coverage under the program in communities designated by the Administrator and to assume responsibility for the adjustment and payment of claims for losses.

(b) Membership in the Association shall be open to any insurance company or other insurer which—

(1) Is authorized to engage in the insurance business under the laws of any State;

(2) Has total assets of at least \$1 million;

(3) Agrees to assume a minimum net loss liability of \$25,000 under policies of insurance issued in the name of the Association for each accounting period of membership;

(4) Pays an admission fee equal to \$50 for each \$25,000 of participation; and

(5) Agrees to such other reasonable conditions as the Association may prescribe, subject to the approval of the Administrator.

(c) No insurer shall be admitted to membership in the Association for a term less than a full accounting period, nor subsequent to July 1 of any accounting period, as defined in § 1909.1 of this subchapter.

(d) Under the agreement, any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization desiring to cooperate with the Association as fiscal agent or otherwise, is permitted to do so to the maximum extent practicable. The Association will use its best efforts to arrange for the issuance of flood insurance to any person qualifying for such coverage under Parts 1911 and 1914 of this subchapter who submits an application to either a member or nonmember company in accordance with the terms and conditions of the agreement.

(e) Communications concerning membership in or cooperation with the Association should be addressed directly to the National Flood Insurers Association, 160 Water Street, New York, NY 10038.

§ 1912.3 Limitations on sale of policies.

(a) Each participating or cooperating insurer offering flood insurance under the program shall be deemed to have agreed, as a condition of such participation or cooperation, that it shall not offer flood insurance under any authority or auspices in any amount within the maximum limits of coverage specified in § 1911.6 of this subchapter, in any area the Administrator designates in Part 1914 of this subchapter as eligible for the sale of flood insurance under the program, other than in accordance with this part, the agreement, and the Standard Flood Insurance Policy issued pursuant thereto. Violation of this condi-

tion shall, at the discretion of the Administrator, exclude the violator from any further membership in or cooperation with the Association or the program.

(b) The agreement and all activities thereunder are subject to title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and to the applicable Federal regulations and requirements issued from time to time pursuant thereto. No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination under the program, on the ground of race, color, or national origin. Any complaint or information concerning the existence of any such unlawful discrimination in any matter within the purview of this part should be referred to the Administrator.

Subpart B—Claims Adjustment and Judicial Review

§ 1912.21 Claims adjustment.

(a) In accordance with the agreement, the Association shall arrange for the prompt adjustment and settlement of all claims arising from policies of insurance issued under the program. Investigation of such claims may be made through the facilities of its members, nonmember insurers, or insurance adjustment organizations, to the extent required and appropriate for the expeditious processing of such claims. Settlements so made and loss adjustment expenses so incurred shall, subject to audit, be binding on the Administrator.

(b) All adjustment of losses and settlements of claims shall be made in accordance with the terms and conditions of the policy and Parts 1911 and 1912 of this subchapter.

§ 1912.22 Judicial review.

Upon the disallowance by the Association of any claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within 1 year after the date of mailing of the notice of disallowance or partial disallowance of the claim, may, pursuant to section 1333 of the Act, institute an action on such claim against either the Association or the participating insurer which denied the claim, in the U.S. district court for the district in which the insured property or the major portion thereof shall have been situated, without regard to the amount in controversy.

PART 1913—EXEMPTION FROM DENIAL OF FEDERAL DISASTER BENEFITS

Sec.

1913.1 Purpose of part.

1913.2 Definition of low-income person.

1913.3 Exemption of low-income persons.

AUTHORITY: The provisions of this Part 1913 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968, effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969.

§ 1913.1 Purpose of part.

The purpose of this part is to state the circumstances in which the provisions of

subsection 1314(a)(2) of the Act shall not apply to low-income persons. Subsection 1314(a)(2) provides that no Federal disaster assistance shall be made available to any persons for the physical loss, destruction, or damage of real or personal property to the extent that such loss, destruction, or damage could have been covered by flood insurance made available under the authority of the Act, and provided that such loss, destruction, or damage occurred subsequent to 1 year following the date flood insurance was made available in the area in which the property was located.

§ 1913.2 Definition of low-income person.

“Low-income person” means an individual or family, as defined in § 235.5 of this title, having an adjusted annual income, as defined in § 235.5 of this title, not exceeding the approved regular income limits for eligibility for housing under sections 235 and 236 of the National Housing Act (12 U.S.C. 1715 z and z–1), as periodically established by the Department for the community in which the property is situated.

§ 1913.3 Exemption of low-income persons.

The provisions of subsection 1314(a)(2) of the Act shall not be applicable to low-income persons under any circumstances.

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Sec.

1914.1 Purpose of part.

1914.2 Flood insurance maps.

1914.3 Procedures under the emergency program.

1914.4 List of eligible communities.

AUTHORITIES: The provisions of this Part 1914 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968) as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969.

§ 1914.1 Purpose of part.

(a) Sections 1360 and 1307 of the Act contemplate that flood insurance under the regular program will be offered in communities only after the Administrator has identified the areas of special flood and/or mudslide hazards within the community under Part 1915 of this subchapter and has completed a ratemaking 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 §§ 1909.23 and 1910.25 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) Section 1336 of the Act authorizes an emergency implementation of the Federal Flood Insurance Program whereby, for a period ending on December 31, 1971, the Administrator may make subsidized coverage available to eligible com-

munities 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.

§ 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) *Emergency Flood Insurance Map.* This map is used to delineate an area for which the Administrator has authorized the sale of flood insurance under the emergency program. Such a map will usually be issued only when the area for which the sale of flood insurance has been authorized does not conform precisely to the boundaries of the eligible community.

(2) *Flood Insurance Rate Map.* 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.
V-----	Area of special flood hazards with velocity.
B-----	Area of moderate flood hazards.
C-----	Area of minimal flood hazards.
D-----	Area of undetermined, but possible, flood hazards.
M-----	Area of special mudslide hazards.
N-----	Area of moderate mudslide hazards.
C-----	Area of minimal mudslide hazards.
P-----	Area of undetermined, but possible, mudslide hazards.

Areas identified as subject to both flood and mudslide hazards will be designated by use of the proper symbols in combination. For example, the symbol “AN” would indicate an area subject to both special flood hazards and moderate mudslide hazards. Areas subject to only one hazard or where both hazards are minimal will be identified by only one symbol.

(3) *Flood Hazard Boundary Map.* This map is issued or approved by the Administrator for use in determining whether individual properties are within or without the flood plain area having special flood hazards and/or the mudslide area having special mudslide hazards. Notice of the issuance or approval of new Flood Hazard Boundary Maps is given in Part 1915 of this subchapter.

(b) The Emergency Flood Insurance Map (if available) or the Flood Hazard Boundary Map and the Flood Insurance Rate Map shall be maintained for public inspection during business hours at the following locations—

(1) The Federal Insurance Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410;

(2) The National Flood Insurers Association, 160 Water Street, New York, NY 10038;

(3) The information office of the State agency or agencies designated by each State to cooperate with the Administrator in implementing the program, which shall be listed in § 1914.4 whenever a community within that State becomes eligible under the program;

(4) One or more official locations within the community in which flood insurance is offered, which shall be specified in § 1914.4 at the time the eligibility of the community is announced.

§ 1914.3 Procedures under the emergency program.

(a) In order to expedite a community's qualification for flood insurance under the emergency program, the Administrator may designate the entire community a flood plain area having special flood hazards and/or a mudslide area having special mudslide hazards. When the Administrator has obtained sufficient technical information to delineate the special flood or mudslide hazard areas more precisely, he may delineate, or he may request the community to delineate subject to his approval, the proposed boundaries of the more limited area having special flood or mudslide hazards on the Flood Hazard Boundary Map. The local map or plat used to prepare the Flood Hazard Boundary Map must be of sufficient scale to show the location of building sites.

(b) Until the Administrator has issued or approved a local Flood Hazard Boundary Map, no flood insurance will be available for any properties newly constructed or substantially improved after a community is identified as having special flood or mudslide hazards. After the issuance or approval of the Flood Hazard Boundary Map, flood insurance for such properties will be available at chargeable rates if they are lo-

cated outside of the areas then delineated as having special flood or mudslide hazards. Newly constructed or substantially improved properties located within the delineated areas having special flood or mudslide hazards will be able to obtain flood insurance (at actuarial rates) only upon the completion of a ratemaking study for the community and the subsequent issuance by the Administrator of a Flood Insurance Rate Map.

§ 1914.4 List of eligible communities.

The sale of flood insurance is authorized only for communities listed in this section. The maps of such communities are available for public inspection at the State and local repositories set forth under this section.

NOTE: For the list of communities eligible for flood insurance and the locations where Flood Insurance Rate Maps are available for public inspection, see the List of Sections Affected.

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

Sec.

1915.1 Purpose of part.

1915.2 Special Flood Hazard Map.

1915.3 List of communities with special hazard areas.

AUTHORITY: The provisions of this Part 1915 issued under the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969.

§ 1915.1 Purpose of part.

Section 1360 of the Act authorizes the Administrator to identify and publish in-

formation with respect to all flood plain areas having special flood hazards and mudslide areas having special mudslide hazards. Section 1308(c) of the Act provides that once an area has been so identified, flood insurance will be made available only at actuarial rates within such area with respect to any property which is thereafter constructed or substantially improved. 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 or mudslide hazards. Additional communities will be added to this list from time to time as the necessary information becomes available.

§ 1915.2 Special Flood Hazard Map.

Any map showing areas having special flood or mudslide areas may be designated by the Administrator as a Special Flood Hazard Map, whether or not such map is of sufficient scale to permit the location of individual building sites. The Administrator may then furnish the Special Flood Hazard Map to the community for use in preparing a proposed Flood Hazard Boundary Map, or else he may prepare the boundary map himself. After its approval by the Administrator, the Flood Hazard Boundary Map will be made available for public inspection in accordance with § 1914.2(b).

§ 1915.3 List of communities with special hazard areas.

NOTE: For the list of communities and the designated flood or mudslide hazard areas issued under this section and not carried in the Code of Federal Regulations, see the List of Sections Affected.

Effective date. These regulations shall be effective September 10, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

