

SUBCHAPTER B—INSURANCE AND HAZARD MITIGATION

PARTS 50–54 [RESERVED]

NATIONAL INSURANCE DEVELOPMENT
PROGRAM

PARTS 55–58 [RESERVED]

NATIONAL FLOOD INSURANCE PROGRAM

PART 59—GENERAL PROVISIONS

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Subpart A—General

§ 59.1 Definitions.

As used in this subchapter—

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

Actuarial rates—see *risk premium rates*.

Administrator means the Administrator of the Federal Emergency Management Agency.

Agency means the Federal Emergency Management Agency, Washington DC.

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and, unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Applicant means a community which indicates a desire to participate in the Program.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future-conditions flood hazard means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood-related erosion hazard is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

Area of special flood hazard is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1–30, AE, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1–30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in

meaning with the phrase “area of special flood hazard”.

Area of special mudslide (i.e., mudflow) hazard is the land within a community most likely to be subject to severe mudslides (i.e., mudflows). The area may be designated as Zone M on the FHBM. After the detailed evaluation of the special mudslide (i.e., mudflow) hazard area in preparation for publication of the FIRM, Zone M may be further refined.

Base flood means the flood having a one percent chance of being equalled or exceeded in any given year.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building—see *structure*.

Chargeable rates mean the rates established by the Federal Insurance Administrator pursuant to section 1308 of the Act for first layer limits of flood insurance on existing structures.

Chief Executive Officer of the community (*CEO*) means the official of the community who is charged with the authority to implement and administer laws, ordinances and regulations for that community.

Coastal high hazard area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Community means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

Contents coverage is the insurance on personal property within an enclosed structure, including the cost of debris removal, and the reasonable cost of removal of contents to minimize damage. Personal property may be household

goods usual or incidental to residential occupancy, or merchandise, furniture, fixtures, machinery, equipment and supplies usual to other than residential occupancies.

Criteria means the comprehensive criteria for land management and use for flood-prone areas developed under 42 U.S.C. 4102 for the purposes set forth in part 60 of this subchapter.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Curvilinear Line means the border on either a FHBM or FIRM that delineates the special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazard areas and consists of a curved or contour line that follows the topography.

Deductible means the fixed amount or percentage of any loss covered by insurance which is borne by the insured prior to the insurer’s liability.

Developed area means an area of a community that is:

(a) A primarily urbanized, built-up area that is a minimum of 20 contiguous acres, has basic urban infrastructure, including roads, utilities, communications, and public facilities, to sustain industrial, residential, and commercial activities, and

(1) Within which 75 percent or more of the parcels, tracts, or lots contain commercial, industrial, or residential structures or uses; or

(2) Is a single parcel, tract, or lot in which 75 percent of the area contains existing commercial or industrial structures or uses; or

(3) Is a subdivision developed at a density of at least two residential structures per acre within which 75 percent or more of the lots contain existing residential structures at the time the designation is adopted.

(b) Undeveloped parcels, tracts, or lots, the combination of which is less than 20 acres and contiguous on at least 3 sides to areas meeting the criteria of paragraph (a) at the time the designation is adopted.

(c) A subdivision that is a minimum of 20 contiguous acres that has obtained all necessary government approvals, provided that the actual

“start of construction” of structures has occurred on at least 10 percent of the lots or remaining lots of a subdivision or 10 percent of the maximum building coverage or remaining building coverage allowed for a single lot subdivision at the time the designation is adopted and construction of structures is underway. Residential subdivisions must meet the density criteria in paragraph (a)(3).

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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

Elevated building means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Emergency Flood Insurance Program or emergency program means the Program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

Erosion means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.

Exception means a waiver from the provisions of part 60 of this subchapter directed to a community which relieves it from the requirements of a rule, regulation, order or other determination made or issued pursuant to the Act.

Existing construction, means for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”

Existing manufactured home park or subdivision means a manufactured

home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Existing structures see *existing construction*.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal agency means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration.

Financial assistance means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance, other than general or special revenue sharing or formula grants made to States.

Financial assistance for acquisition or construction purposes means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to

be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance pursuant to the Disaster Relief Act of 1974 other than assistance under such Act in connection with a flood. It includes only financial assistance insurable under the Standard Flood Insurance Policy.

First-layer coverage is the maximum amount of structural and contents insurance coverage available under the Emergency Program.

Flood or Flooding means:

(a) 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.

(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood elevation determination means a determination by the Federal Insurance Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Hazard Boundary Map means an official map of a community, issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

Flood insurance means the insurance coverage provided under the Program.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study see *flood elevation study*.

Flood plain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of “flooding”).

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

Flood plain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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

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

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

Floodway—see *regulatory floodway*.

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

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The

term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Future-conditions flood hazard area, or *future-conditions floodplain*—see *Area of future-conditions flood hazard*.

Future-conditions hydrology means the flood discharges associated with projected land-use conditions based on a community’s zoning maps and/or comprehensive land-use plans and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, fill, and excavation.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.

Independent scientific body means a non-Federal technical or scientific organization involved in the study of

land use planning, flood plain management, hydrology, geology, geography, or any other related field of study concerned with flooding.

Insurance adjustment organization means any organization or person engaged in the business of adjusting loss claims arising under the Standard Flood Insurance Policy.

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

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; *Provided*, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of § 60.3.

Mangrove stand means an assemblage of mangrove trees which are mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contain one or more of the following species: Black mangrove (*Avicennia Nitida*); red mangrove (*Rhizophora Mangle*); white mangrove (*Languncularia Racemosa*); and buttonwood (*Conocarpus Erecta*).

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous

parcels) of land divided into two or more manufactured home lots for rent or sale.

Map means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

Mudslide (i.e., mudflow) area management means the operation of an overall program of corrective and preventive measures for reducing mudslide (i.e., mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and flood plain management regulations.

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

New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

100-year flood see *base flood*.

Participating community, also known as an *eligible community*, means a community in which the Administrator has authorized the sale of flood insurance.

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

Policy means the Standard Flood Insurance Policy.

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

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Principally above ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

Program means the National Flood Insurance Program authorized by 42 U.S.C. 4001 through 4128.

Program deficiency means a defect in a community's flood plain management regulations or administrative procedures that impairs effective implementation of those flood plain management regulations or of the standards in §§ 60.3, 60.4, 60.5, or 60.6.

Project cost means the total financial cost of a flood protection system (in-

cluding design, land acquisition, construction, fees, overhead, and profits), unless the Federal Insurance Administrator determines a given "cost" not to be a part of such project cost.

Recreational vehicle means a vehicle which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Reference feature is the receding edge of a bluff or eroding frontal dune, or if such a feature is not present, the normal high-water line or the seaward line of permanent vegetation if a high-water line cannot be identified.

Regular Program means the Program authorized by the Act under which risk premium rates are required for the first half of available coverage (also known as "first layer" coverage) for all new construction and substantial improvements started on or after the effective date of the FIRM, or after December 31, 1974, for FIRM's effective on or before that date. All buildings, the construction of which started before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date, are eligible for first layer coverage at either subsidized rates or risk premium rates, whichever are lower. Regardless of date of construction, risk premium rates are always required for the second layer coverage and such coverage is offered only after the Administrator has completed a risk study for the community.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Remedy a violation means to bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that

impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Risk premium rates means those rates established by the Federal Insurance Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with section 1307 of the Act and the accepted actuarial principles. “Risk premium rates” include provisions for operating costs and allowances.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sand dunes mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Scientifically incorrect. The methodology(ies) and/or assumptions which have been utilized are inappropriate for the physical processes being evaluated or are otherwise erroneous.

Second layer coverage means an additional limit of coverage equal to the amounts made available under the Emergency Program, and made available under the Regular Program.

Servicing company means a corporation, partnership, association, or any other organized entity which contracts with the Federal Insurance Administration to service insurance policies under the National Flood Insurance Program for a particular area.

Sheet flow area—see *area of shallow flooding*.

60-year setback means a distance equal to 60 times the average annual long term recession rate at a site, measured from the reference feature.

Special flood hazard area—see “area of special flood hazard”.

Special hazard area means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

Standard Flood Insurance Policy means the flood insurance policy issued by the Federal Insurance Adminis-

trator or an insurer pursuant to an arrangement with the Federal Insurance Administrator pursuant to Federal statutes and regulations.

Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

State Coordinating Agency means the agency of the state government (or other office designated by the Governor of the state or by state statute) that, at the request of the Federal Insurance Administrator, assists in the implementation of the National Flood Insurance Program in that state.

Storm cellar means a space below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter

against severe tornado or similar wind storm activity.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes, means:

(1) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;

(2) A manufactured home ("a manufactured home," also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or

(3) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For the latter purpose, "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

Subsidized rates mean the rates established by the Federal Insurance Administrator involving in the aggregate a subsidization by the Federal Government.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have

been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or

(2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

30-year setback means a distance equal to 30 times the average annual long term recession rate at a site, measured from the reference feature.

Technically incorrect. The methodology(ies) utilized has been erroneously applied due to mathematical or measurement error, changed physical conditions, or insufficient quantity or quality of input data.

V Zone—see "coastal high hazard area."

Variance means a grant of relief by a community from the terms of a flood plain management regulation.

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Zone of imminent collapse means an area subject to erosion adjacent to the shoreline of an ocean, bay, or lake and within a distance equal to 10 feet plus 5 times the average annual long-term erosion rate for the site, measured from the reference feature.

[41 FR 46968, Oct. 26, 1976]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §59.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO access.

§ 59.2 Description of program.

(a) The National Flood Insurance Act of 1968 was enacted by title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448, August 1, 1968) to provide previously unavailable flood insurance protection to property owners in flood-prone areas. Mudslide (as defined in § 59.1) protection was added to the Program by the Housing and Urban Development Act of 1969 (Pub. L. 91–152, December 24, 1969). Flood-related erosion (as defined in § 59.1) protection was added to the Program by the Flood Disaster Protection Act of 1973 (Pub. L. 93–234, December 31, 1973). The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally-related financial assistance for acquisition or construction purposes with respect to insurable buildings and mobile homes within an identified special flood, mudslide (i.e., mudflow), or flood-related erosion hazard area that is located within any community participating in the Program. The Act also requires that on and after July 1, 1975, or one year after a community has been formally notified by the Federal Insurance Administrator, of its identification as community containing one or more special flood, mudslide (i.e., mudflow), or flood-related erosion hazard areas, no such Federal financial assistance, shall be provided within such an area unless the community in which the area is located is then participating in the Program, subject to certain exceptions. See FIA published Guidelines at § 59.4(c).

(b) To qualify for the sale of federally-subsidized flood insurance a community must adopt and submit to the Federal Insurance Administrator, as part of its application, flood plain management regulations, satisfying at a minimum the criteria set forth at part 60 of this subchapter, designed to reduce or avoid future flood, mudslide (i.e., mudflow) or flood-related erosion damages. These regulations must include effective enforcement provisions.

(c) Minimum requirements for adequate flood plain management regulations are set forth in § 60.3 for flood-prone areas, in § 60.4 for mudslide (i.e.,

mudflow) areas and in § 60.5 for flood-related erosion areas. Those applicable requirements and standards are based on the amount of technical information available to the community.

[41 FR 46968, Oct. 26, 1976, as amended at 43 FR 7140, Feb. 17, 1978. Redesignated at 44 FR 31177, May 31, 1979, and amended at 48 FR 44552, Sept. 29, 1983; 49 FR 4751, Feb. 8, 1984]

§ 59.3 Emergency program.

The 1968 Act required a risk study to be undertaken for each community before it could become eligible for the sale of flood insurance. Since this requirement resulted in a delay in providing insurance, the Congress, in section 408 of the Housing and Urban Development Act of 1969 (Pub. L. 91–152, December 24, 1969), established an Emergency Flood Insurance Program as a new section 1336 of the National Flood Insurance Act (42 U.S.C. 4056) to permit the early sale of insurance in flood-prone communities. The emergency program does not affect the requirement that a community must adopt adequate flood plain management regulations pursuant to part 60 of this subchapter but permits insurance to be sold before a study is conducted to determine risk premium rates for the community. The program still requires upon the effective date of a FIRM the charging of risk premium rates for all new construction and substantial improvements and for higher limits of coverage for existing structures.

[43 FR 7140, Feb. 17, 1978. Redesignated at 44 FR 31177, May 31, 1979, and amended at 48 FR 44543, Sept. 29, 1983]

§ 59.4 References.

(a) The following are statutory references for the National Flood Insurance Program, under which these regulations are issued:

(1) National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), Pub. L. 90–448, approved August 1, 1968, 42 U.S.C. 4001 et seq.

(2) Housing and Urban Development Act of 1969 (Pub. L. 91–152, approved December 24, 1969).

(3) Flood Disaster Protection Act of 1973 (87 Stat. 980), Public Law 93–234, approved December 31, 1973.

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(4) Section 816 of the Housing and Community Development Act of 1974 (87 Stat. 975), Public Law 93-383, approved August 22, 1974.

(5) Public Law 5-128 (effective October 12, 1977).

(6) The above statutes are included in 42 U.S.C. 4001 et seq.

(b) The following are references relevant to the National Flood Insurance Program:

(1) Executive Order 11988 (Floodplain Management, dated May 24, 1977 (42 FR 26951, May 25, 1977)).

(2) The Flood Control Act of 1960 (Pub. L. 86-645).

(3) Title II, section 314 of title III and section 406 of title IV of the Disaster Relief Act of 1974 (Pub. L. 93-288).

(4) Coastal Zone Management Act (Pub. L. 92-583), as amended Public Law 94-370.

(5) Water Resources Planning Act (Pub. L. 89-90), as amended Public Law 94-112 (October 16, 1975).

(6) Title I, National Environmental Policy Act (Pub. L. 91-190).

(7) Land and Water Conservation Fund Act (Pub. L. 89-578), and subsequent amendments thereto.

(8) Water Resources Council, Principals and Standards for Planning, Water and Related Land Resources (38 FR 24778-24869, September 10, 1973).

(9) Executive Order 11593 (Protection and Enhancement of the Cultural Environment), dated May 13, 1971 (36 FR 8921, May 15, 1971).

(10) 89th Cong., 2nd Session, H.D. 465.

(11) Required land use element for comprehensive planning assistance under section 701 of the Housing Act of 1954, as amended by the Housing and Community Development Act of 1974 (24 CFR 600.72).

(12) Executive Order 11990 (Protection of Wetlands, dated May 24, 1977 (42 FR 26951, May 25, 1977)).

(13) Water Resources Council (Guidance for Floodplain Management) (42 FR 52590, September 30, 1977).

(14) Unified National Program for Floodplain Management of the United States Water Resources Council, July 1976.

(c) The following reference guidelines represent the views of the Federal Insurance Administration with respect to the mandatory purchase of flood insur-

ance under section 102 of the Flood Disaster Protection Act of 1973: Mandatory Purchase of Flood Insurance Guidelines (54 FR 29666-29695, July 13, 1989).

[41 FR 46968, Oct. 26, 1976, as amended at 43 FR 7140, Feb. 17, 1978. Redesignated at 44 FR 31177, May 31, 1979, and amended at 57 FR 19540, May 7, 1992]

Subpart B—Eligibility Requirements

§ 59.21 Purpose of subpart.

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

[41 FR 46968, Oct. 26, 1976. Redesignated at 44 FR 31177, May 31, 1979]

§ 59.22 Prerequisites for the sale of flood insurance.

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

(1) Copies of legislative and executive actions indicating a local need for flood insurance and an explicit desire to participate in the National 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 copy of the flood plain management regulations the community has adopted to meet the requirements of §§ 60.3, 60.4 and/or § 60.5 of this subchapter. This submission shall include copies of any zoning, building, and subdivision regulations, health codes, special purpose ordinances (such as a flood plain ordinance, grading ordinance, or flood-related erosion control ordinance), and any other corrective and preventive measures enacted to reduce or prevent flood, mudslide (i.e., mudflow) or flood-related erosion damage;

(4) A list of the incorporated communities within the applicant's boundaries;

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

(i) Population;