AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

SUBCHAPTER A—GENERAL REGULATIONS

PARTS 1800–1805 [RESERVED]

PART 1806—INSURANCE

Subpart A—Real Property Insurance

Sec.
1806.1 General.
1806.2 Companies and policies.
1808.3 Coverage requirements.
1806.4 Examining and general servicing of insurance.
1806.5 Losses.
1806.6 Failure of borrower to provide insurance.
EXHIBIT A TO SUBPART A OF PART 1806—ESCROW AGREEMENT REAL PROPERTY INSURANCE

Subpart B—National Flood Insurance

1806.21 General.
1806.22 Areas of responsibility.
1806.23 Definitions.
1806.24 Eligibility.
1806.25 Conditions.
1806.26 Coverage and premium rates.
1806.27 Acceptable policies and servicing.
1806.28 Borrowers required to escrow.
EXHIBIT A TO SUBPART B OF PART 1806—COVERAGE AND PREMIUM RATES
EXHIBIT B TO SUBPART B OF PART 1806—SERVICING COMPANY

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart A—Real Property Insurance

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.

§ 1806.1 General.

(a) *Authority.* This subpart sets forth the policies and procedures regarding insurance requirements on real property which serves as security for a debt under the Multi-Family Housing Programs of the Rural Housing Service (RHS), herein referred to as the ''Agency.'' This subpart is inapplicable to Farm Service Agency, Farm Loan Programs.

(b) *Borrower to furnish insurance.* The real estate mortgage executed by the borrower provides that he will furnish and continually maintain and pay for insurance on buildings situated or constructed on the property with companies, in amounts, and on terms and conditions satisfactory to RD until the loan is repaid.

(c) *Borrower's selection of company.* The borrower may select the insurance company provided that the company and insurance policy comply with all the requirements set forth in this Instruction.

(d) *Responsibility.* The County Supervisor is responsible for taking all actions in connection with insurance as may be necessary to protect the security interest of RD. Any unusual situation that may arise with respect to obtaining or servicing insurance should be referred to the State Director. The State Director will refer any questions of a legal nature to the Office of the General Counsel (OGC).

(e) *Use of Form RD 426–1, ''Valuations of Buildings.''* The minimum insurance required will be indicated in the appraisal report by the employee who makes the appraisal of property that includes insurable buildings. In the case where no real estate appraisal is required or the appraisal report does not indicate the minimum insurance coverage, Form RD 426–1 will be prepared by the County Supervisor. Reevaluation of the buildings will not be done on appraisal reports; however, when new buildings are constructed or values increase or decrease materially and reevaluation is necessary to properly reflect the buildings' security interest of RD, the County Supervisor will prepare or revise Form RD 426–1 as appropriate. Changes made on an existing Form RD 426–1 will be dated and initialed. The reason for any deletion will be noted on the Form.

[41 FR 34571, Aug. 16, 1976, as amended at 61 FR 59777, Nov. 22, 1996; 72 FR 64121, Nov. 15, 2007; 80 FR 9864, Feb. 24, 2015]

§ 1806.2 Companies and policies.

Property insurance policies or other evidence of insurance will be accepted

from borrowers when the requirements outlined herein are complied with fully.

(a) *Companies.* It is desirable that companies be licensed to do business in the particular State or other jurisdiction where the property is located, or that they be otherwise authorized by law to transact business within such State or other jurisdiction (hereinafter called ''State''). If the required insurance is not available locally at comparable rates from an insurance company licensed or otherwise authorized to do business in the State, insurance may be accepted from another company if (1) the OGC advises that policies issued by such company will not be rendered unenforceable by virtue of the company's failure to be licensed or otherwise authorized to transact business in the State and that the company is a legal entity which may be sued in the State where the insured property is located, and (2) the State Director determines that the company is reputable and financially sound. In making the above determinations, the State Director will consider all relevant available information such as that which may be obtained from financial statements, Best's Insurance Reports, State insurance authorities, and other lending institutions.

(b) *Insurance policies*—(1) *Standard policies.* If a standard fire insurance policy has been adopted for the State, it should be used unless State statutes exempt the company from the regulations requiring its use. The standard policy is one containing substantially the same standard provisions adopted or recommended by legislative action or by order of the supervisory insurance authorities of the State in which the security is located.

(2) *Other policies.* To be acceptable, any other insurance policies must conform to the requirements of this Instruction.

(i) ''Homeowner's'' policies, ''All Physical Loss'' policies, ''Broad Form'' policies, and other such all-inclusive policies are acceptable if they otherwise meet the requirements of this Instruction.

(ii) A builder's risk policy naming the borrower as the insured or a builder's risk endorsement for a policy issued to the borrower may be accepted during the period a building is under construction if the policy otherwise meets the requirements of this Instruction. If such a policy or endorsement does not automatically convert to full coverage when the building is completed, acceptable insurance must be obtained simultaneously with the expiration of the builder's isk provisions of the policy.

(iii) A builder's risk insurance policy issued to a contractor only may not be substituted for the property insurance, the borrower is required to provide.

(iv) Borrowers eligible for insurance under the National Flood Insurance Act of 1968, as amended by the Flood Disaster Act of 1973, will be serviced in accordance with subpart B of this part.

(3) *State instructions.* If the State Director and the OGC consider it advisable, a State Instruction may be issued to help County Supervisors identify standard insurance policies adopted for the State. The Instruction should also furnish a guide to assist in identifying other acceptable insurance policy forms that are commonly used by insurance companies in the State, recognizing that such information is not all inclusive.

(4) *Binders.* Whenever there is a justifiable reason for not issuing a policy or endorsement, as required, a written binder will be acceptable for a period not to exceed 60 days from the effective date of the insurance. The written binder must have attached thereto the approved form of mortgage clause. Such a binder will be submitted to the County Supervisor in lieu of an insurance policy or endorsement and the insurance policy or endorsement will be submitted on or before the expiration date of the binder. The State Director, with the advice of the OGC and subject to prior approval of the National Office, may issue a State Instruction authorizing such binders to be accepted for periods longer than 60 days.

(5) *Submission of policies.* (i) For Farmer Program (FP) loans secured by a first lien, the original policy or declaration page must be delivered to the County Supervisor. The original policy or declaration page will be returned to the borrower after one year using Form

RD 426–4, ''Notice of Expiration of Insurance.''

(ii) For Single Family Housing (SFH) loans secured by a first lien, the original policy or declaration page must be delivered to the closing agent.

(iii) In cases where an FP or SFH loan is secured by other than a first lien and the mortgage clauses include the names of the prior mortgagees, a certificate of insurance, copy of the policy, or other evidence of insurance is acceptable.

(iv) The County Supervisor will process an advance to pay for insurance only in strict compliance with provisions of §1806.6 of this subpart.

(6) *Master sets.* If the master sets meet all of the requirements of this Instruction they may be accepted in lieu of an original policy for each Agency borrower.

(i) One complete master set of the different insurance forms for policies issued by the insurance company must be on file in each County Office where the company insures property of Agency borrowers.

(ii) The ''Declaration Page'' furnished by the insurance company for each borrower insured, in lieu of a complete policy, will be filed in the borrower's case folder. When a ''Declaration Page'' in the form of a computer printout is used by an insurance company an endorsement on every policy issued by that company or a letter from that company will be obtained and attached to the printout. However, a letter signed by an authorized official of the company and addressed to the State Director may cover all policies issued by that company in the State. Any such endorsements or letters should clearly state that the company considers the printout to be an original ''Declaration Page''. Such endorsements or letters are not necessary if the printout itself clearly states that it is an original ''Declaration Page.''

(7) *Name and location.* The policy should contain names of all the borrowers who are owners of the property being insured, and it will be returned for correction if it does not do so. The location of the property should be so described in the policy that the property can easily be identified. The complete legal description of the property by metes and bounds is not required. Any deviation from the requirements of this paragraph must first be cleared with the National Office.

(8) *Loss or damage covered.* Buildings must be insured against loss or damage by fire, lightning, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, and smoke.

(9) *Effective date of insurance.* If there are insurable buildings located on the property, the borrower will arrange with his agent or company to have adequate insurance in force at the time the loan, assumption, or credit sale is closed so that the policy will properly insure the borrower and the mortgagees. When new buildings are erected or major improvements are made to existing buildings, such insurance will be made effective as of the date materials are delivered to the property. The County Supervisor will make no payments from loan funds for labor or materials until the borrower has furnished adequate insurance to protect the interest of the Agency in the buildings being erected or improved.

(10) *Term.* The borrower will be required to furnish insurance for a term of at least one year with evidence that a full year's premium is paid. The term ''premium'' as used herein includes any assessments which may be charged to the borrower. If the assessments are of the type imposed only after a loss occurs involving property insured by the insurance company, then the borrower must present evidence (such as a letter from the company) that he currently does not owe any such assessments. The borrower may receive a discount for insuring for a longer period such as three years or five years and with an annual premium. If the insurance contains an automatic renewal clause, its provision should be substantially the following to be acceptable to the Agency:

This policy will be automatically extended for successive terms at expiration of the original term and of each extension thereof, upon payment of renewal premiums. It is a condition of this policy that if the policy expires or is canceled for nonpayment of premium, or for any other reason, the mortgagee will be given 10 days notice.

(11) *Mortgage clause.* The standard mortgage clause adopted by the State

must be attached to or printed in the policy, or Form RD 426–2, ''Property Insurance Mortgage Clause (Without Contribution),'' must be attached to or the provisions thereof printed in the policy. A letter signed by an authorized official of an insurance company to the State Director, stating that all insurance policies the company issues in the State and in which the Agency has a mortgage interest incorporates all of the provisions of Form RD426–2 may be accepted in lieu of attaching Form RD 426–2 to each policy. If such a blanket letter is used, the Agency will be named in the loss payable clause and a State Instruction will be issued, after prior approval is obtained from the National Office, authorizing the use of such method.

(i) If the use of a mortgage clause, other than the standard mortgage clause (without contribution), has been made mandatory by State laws or insurance regulations, a State Instruction will be issued, after prior approval is obtained from the National Office, authorizing the use of such a form.

(ii) When an approved mortgage clause is printed in the policy a ''Loss Payable Clause'' is acceptable provided the Agency, as mortgagee, would receive payment in case of loss even though the company would not be liable to the borrower. A ''Loss Payable Clause'' which contains the statement that the mortgagee is ''subject to all terms and conditions of the policy'' is not acceptable.

(iii) Whenever a new mortgage clause including the interest of the Agency is issued after the policy has been in force, the new mortgage clause must be signed by an authorized agent or officer of the company that issued the policy. Form RD 426–6, ''Transmittal of Property Insurance Mortgage Clause,'' may be used to transmit the mortgage clause to the insurance official.

(iv) The Agency and all other mortgagees whose interests are insured by the policy will be shown either in the mortgage clause or in the ''Declaration Page'' in the order of priority of their mortgages.

(A) ''United States of America (Rural Development)'' will be named in the mortgage clause for direct and insured loan mortgages naming the Agency as mortgagee, whether in its own right or as trustee under a 2(f) or other agreement with a State Rural Rehabilitation Corporation.

(B) ''United States of America (Rural Development), as first mortgagee or as statutory agent and insurer of such mortgagee,'' will be named in the mortgage clause for insured FO mortgages naming the lender as mortgagee, whether the mortgage is held by the original or a subsequent lender or by the insurance fund or by the Agency under a trust agreement or declaration of trust.

(C) If the designation is not identical to that set forth in paragraphs (b)(11)(iv)(A) or (B) of this section, whichever is applicable, it will be sufficient if the mortgagee is readily identifiable as Rural Development.

(c) *Evidence of premium payment.* (1) When Form RD 426–2 is attached to or the provisions thereof are printed in the policy, or a blanket letter from an insurance company incorporating the provisions of Form RD 426–2 in all policies in which the Agency has a mortgagee interest in effect, in accordance with paragraph (b)(11) of this section, no evidence of premium or assessment payment is required except for the first year of the loan. When a subsequent FP or section 502 RH loan is made to build, buy or rehabilitate essential buildings an endorsement to the existing policy including coverage for the property improved will be sufficient.

(2) [Reserved]

(d) *Policy restrictions.* (1) Any insurance on essential buildings as defined in §1806.3 having restrictions which limit the amount of collectible insurance must meet the Agency requirements set forth below (except for the clause described in paragraph (d)(1)(iv) of this section which is never acceptable); otherwise, such restrictions must be eliminated or modified to afford the required protection.

(i) *Coinsurance clause.* This clause generally provides that in consideration of a reduced rate, the borrower agrees to maintain insurance on his buildings up to a specified percentage (usually 80 percent) of their value and that the company will not be liable for a greater proportion of any partial loss than the amount of insurance bears to

the specified percentage of either the undepreciated replacement value or the depreciated replacement value or the depreciated replacement value (actual cash value) of the buildings at the time of the loss. When the buildings are insured for the specified percentage of their value, the company, in the event of a partial loss, will be liable for the full amount of the loss not to exceed the amount of insurance. A coinsurance clause can be accepted only where the amount of insurance is at least equal to the specified percentage of either the undepreciated replacement value or the depreciated replacement value (actual cash value). For example, an 80 percent coinsurance clause can be accepted only where the amount of insurance on each insured building is at least equal to 80 percent of the appropriate replacement value of the insured building.

(ii) *Three-fourths' value clause.* This clause provides that the liability of the company shall be limited to three-fourths of the depreciated replacement value of the buildings covered at the time of the loss, not to exceed the amount of insurance. This clause may be accepted if the unpaid balance of the loan is not greater than three-fourths of the depreciated replacement value of the building and the amount of insurance is at least equal to the unpaid balance of the loan and any prior liens and no building is insured for more than three-fourths of its depreciated replacement value.

(iii) *Loss deductible clause.* (A) For all loans other than RRH, RCH, and LH organizations this clause generally provides that loss to each building to the extent of the limitation is not recoverable. The company is liable only for loss to each building in excess of such limitation stated in the clause. This clause may be accepted where the limitation does not exceed $150, or one percent of the insurance coverage whichever is greater. In no case, however, may the limitation on any one building exceed $500.00.

(B) For RRH, RCH, and LH organization loans this clause generally provides that loss to each project to the extent of the limitation is not recoverable. The company is liable only for loss to each project in excess of such limitation stated in the clause. This clause may be accepted where the limitation does not exceed the option shown below that is chosen by the borrower and agreed to by the Loan Approving Official and properly annotated in the borrower file. The borrower and the Official should consider the economic impact to the project when selecting the appropriate option.

(*1*) Option 1—Up to one-fourth of one percent (0.0025) of the insurable value. Maximum deductible $5,000.

(*2*) Option 2—Up to a maximum deductible of $500 on any project with an insurable value not exceeding $200,000.

(*3*) Option 3—Option 1 may be chosen and increased above the maximum deductible by an amount equivalent to funds specifically escrowed in the project replacement reserve account as an offset to the increased deductible.

(*4*) Option 4—Option 2 may be chosen and increased above the maximum deductible by an amount equivalent to funds specifically escrowed in the project replacement reserve account as an offset to the increased deductible.

(*5*) The funds used to increase the deductible in Option 3 or Option 4 may be from project funds if it does not create an unsecure financial situation for the project. Also, non-project funds may be used for Option 3 or 4 and then repaid by withdrawal from the project at the rate of 75 percent of the annual insurance premium savings earned by the amount of escrow deposit, up to the amount deposited.

(*6*) The funds escrowed to increase the authorized deductible will be placed in the project reserve account as an increased amount in and above the amount required by the Loan Agreement/Resolution and so annotated in the borrower's accounting system.

(iv) *Three-fourths' loss clause.* This clause provides that the company will not pay more than three-fourths of any loss, nor more than three-fourths of the amount of insurance in force. This clause is never acceptable and must be eliminated.

(v) *Deferred loss payable clause.* This clause provides that, if the amount payable under the policy for any loss to any building insured shall be in excess of a specified portion, (usually 60 percent) of the amount of insurance on

such building, the company will withhold from its initial loss payment any sum in excess of the specified portion of the amount of insurance on such building. If the building sustaining such loss is repaired or replaced within six months from the date of the fire and at or within 300 feet of the original location, as described in the policy, the company upon receipt of evidence to that effect from the insured will pay the full balance withheld from the initial payment, provided the amount expended in repairing or replacing the building damaged or destroyed will equal or exceed the amount of loss as determined under the terms of the policy. Failure to repair or replace any insured building within the time and manner provided will constitute acceptance of the initial payment as full and final settlement under the policy with respect to the loss. This clause may be accepted if the amount of insurance is for the full depreciated replacement value (actual cash value) of the building and the unpaid balance of the loan and any prior lien(s) is not greater than the initial loss payment made by the company.

(vi) *Construction specifications and use conditions.* If the insurance policy contains clauses which specify certain standards of construction or prescribes certain uses of the property for the insurance to be valid, the policy is acceptable only if the property meets such specifications or conditions at the time of acceptance. For example, if the policy provides that the chimney be constructed of a certain type of material, the County Supervisor should be assured that the required material has been used, or if the policy provides that farming operations are not carried out on the premises he should be assured that this condition is met.

(2) Policies generally will not be accepted if, under the terms of the policies or local laws, contributions or assessments may be made against the Agency. However, policies which impose assessments on the borrower may be accepted only if the Agency mortgage will be recorded prior to any failure of the borrower to pay any such assessments. Policies also will not be accepted if, by their terms or other conditions, loss payments are contingent upon collective action by the Board of Directors, or the stockholders, or the members.

(e) *Buildings on leaseholds.* The policy will indicate that the insured is the lessee or tenant and not the owner of the buildings securing the Agency loan; or, if he is the owner of the building on the leased land, the policy will indicate that the insured is the owner of the building, but not of the land. State Directors, with the advice of the OGC will issue State Instructions to meet any other special requirements needed to conform with the insurance requirements of the State to enable leaseholders to obtain property insurance for buildings which are security for the Agency loans.

(7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegations of authority by Director, OEO, 29 FR 14764, 33 FR 9850)

[41 FR 34571, Aug. 16, 1976, as amended at 41 FR 49990, Nov. 12, 1976; 42 FR 33262, June 30, 1977; 43 FR 56013, Nov. 30, 1978; 44 FR 45115, Aug. 1, 1979; 51 FR 17921, May 16, 1986; 54 FR 35869, Aug. 30, 1989; 56 FR 6945, Feb. 21, 1991; 80 FR 9864, Feb. 24, 2015]

§ 1806.3 Coverage requirements.

The County Supervisor should encourage the borrower for his own protection to insure for their depreciated replacement value (actual cash value) all essential buildings. Essential buildings include the dwelling and any other buildings that are necessary for the operation of the property or that provide income to assure orderly repayment of the loan. If insurance is for less than the depreciated replacement value of all essential buildings, the County Supervisor will see that the coverage is obtained on one or more of the most essential buildings. The minimum amount of coverage will be furnished as prescribed below:

(a) *Loans secured by a first lien.* (1) When the unpaid balance of the Agency loan secured by a first lien is equal to or greater than the depreciated replacement value of the essential buildings, or the cost of adequate essential buildings which can be constructed for

amounts less than the depreciated replacement value of the existing buildings, the essential buildings will be insured, to the nearest multiple of insurance that is available, for the lesser of (i) their depreciated replacement value, or (ii) the cost of constructing adequate essential buildings. For example, if insurance is available in only multiples of $1,000, the minimum insurance required on an essential building valued at $6,600 would be $7,000, and that required on an essential building valued at $6,400 would be $6,000.

(2) When the unpaid balance of the loan is less than the sum of the depreciated replacement value of the essential buildings to be insured, the total amount of insurance must be at least equal to the lesser of (i) the unpaid balance of the loan, or (ii) the cost of adequate essential buildings which can be constructed for amounts less than the depreciated replacement value of the existing buildings to be insured.

(3) When, by the use of loan funds or otherwise, buildings are erected or substantial improvements are made to essential buildings, the amount of insurance will be adjusted in accordance with paragraphs (a)(1) or (2) of this section, whichever is applicable.

(b) *Loans secured by other than first liens.* The amount of insurance on buildings in the case of Agency loans secured by other than a first lien will be the same as required in paragraph (a) of this section, with the understanding that the unpaid balance of the loan will be deemed for this purpose to be the amount of the total real estate mortgage indebtedness owed all prior mortgagees named in the mortgage clause, plus the debt to the Agency which is secured by real estate mortgage.

(c) *Exception of buildings from insurance.* (1) Insurance will not be required on a building:

(i) That is not essential.

(ii) In such a state of disrepair that the cost of insurance would be prohibitive.

(iii) Which has a depreciated replacement value of $2,500 or less.

(iv) Which is being or has been repaired with a section 504 loan of $7,500 or less. Families receiving section 504 loans should be encouraged but not required to carry insurance on their home.

(v) On LH security property which was not built or repaired with Agency loan funds provided that the State Director determines that the land and other structures adequately secure the Agency loan and any prior liens.

(vi) On which the hazards are so slight because of the character and construction of the building, or the cost of the insurance is so high in comparison with the value of the building that, according to common standards of judgment, it should not be insured, including but not limited to windmills, silos, and fire-cured tobacco barns.

(vii) In cases where the unpaid balance of the Agency loans and any prior liens have been reduced to $2,500 or less, property insurance need not be required if the borrower wants to discontinue it, provided the County Supervisor determines that the value of the land security itself is sufficient to protect the Agency in its collection of the amount of the outstanding indebtedness.

(viii) If insurance for windstorm and hail to meet all Agency requirements is not available in a hurricane area, the County Supervisor may accept from the borrower or applicant the windstorm and hail insurance policy that most nearly conforms to Agency requirements. If such an exception is made, the situation should be fully documented in the borrower's case file. However, if the best insurance policy a borrower or applicant can obtain at the time he receives a loan contains a loss deductible clause for windstorm and hail damage exceeding $250 or 10 percent of the actual cash value of the buildings, whichever amount is greater, the insurance policy, with an explanation of the reasons why more adequate insurance is not available will be submitted to the State Office for prior approval.

(2) [Reserved]

[41 FR 34571, Aug. 16, 1976, as amended at 56 FR 6945, Feb. 21, 1991; 80 FR 9865, Feb. 24, 2015]

§ 1806.4 Examining and general servicing of insurance.

(a) *Examination by county office of policies, endorsements, binders, and other*

evidence of insurance. Upon receipt in the County Office of a policy, endorsement, binder, or other evidence of insurance, submitted by a borrower, it will be examined promptly for compliance with the requirements of this Instruction. If the evidence of insurance is found to be acceptable, it will be placed in the borrower's case folder.

(1) *Unacceptable policies.* (i) When the borrower furnishes any policy or other evidence of insurance which does not meet the requirements of this Instruction such policy or other evidence of insurance will be returned to the borrower with the reasons why it is not acceptable.

(ii) If the borrower does not furnish acceptable insurance by the date the previous policy expired or was canceled, the County Supervisor will proceed as provided in §1806.6.

(2) *Expiration records and notices.* (i) In cases other than those involving FP or section 502 RH borrowers, the County Supervisor will notify the borrower of the expiration of his insurance at least 30 days in advance of such expiration unless he has received written evidence that the insurance has been renewed.

(ii) FP and Section 502 RH borrowers will be informed during the tenth month after the date of loan closing of their responsibility to carry insurance. Form RD 426–4 will be sent to these borrowers, regardless of whether there is evidence that the insurance has been renewed. Thereafter, the County Supervisor will not be required to further determine whether the borrower has adequately maintained insurance; however, if a further notice of expiration is received in the County Office, the County Supervisor will again notify the borrower by using RD 426–4 of his responsibility.

(3) *Release of mortgage interest.* When the borrower's loan has been paid in full and the satisfaction or release of the mortgage has been executed, the County Supervisor or his delegate will execute the following Release of Mortgage Interest on the mortgage clause attached to the policy or other evidence of insurance and transmit it with the policy or other evidence of insurance, the paid-in-full note, and the satisfaction to the borrower:

It is understood and agreed that the interest of the United States of America in the property insured hereunder ceased as of (Date of Final Payment), and that the Government shall have no interest in any loss or damage to such property occurring thereafter.

(4) *Lost or misplaced policies.* When an unexpired insurance policy or other evidence of insurance is lost or misplaced, it will be necessary to obtain a replacement policy or other evidence of insurance. The County Supervisor is authorized to sign a Lost Policy Receipt on behalf of the Agency. For FP and section 502 RH loans, this paragraph applies only during the period the policy is retained in the County Office.

(5) *Disposition of expired and canceled policies.* An expired or canceled policy or other evidence of insurance will be returned to the borrower, unless there is a loss settlement pending.

(b) *Special servicing of insurance*—(1) *Vacancy or unoccupancy—tenant occupancy—increased hazard.* If the County Supervisor has knowledge that insured property is vacant or unoccupied or that the ownership or occupancy has changed from owner to tenant, or that the hazards otherwise are increased, he will examine the policy to determine whether the policy permits such conditions. Unless the insurance permits such conditions, the County Supervisor will immediately notify the company or agent in writing. In any case where there is an additional premium due because of vacancy, unoccupancy, tenant occupancy, or other increased hazard, upon demand to the Agency from the company or agent because the borrower cannot, or will not, pay the additional premium, it may be paid in accordance with RD Instruction 2024–A, to the company or agent. For FP and section 502 RH borrowers, property insurance will not be obtained except in cases where an unusual and severe hazard exists and insurance is necessary to protect the interests of the Government.

(2) *Transfer of property.* (i) When a borrower or transferee requests the consent of the Agency to a transfer of the security property which already has been made, or when the County Supervisor learns that any such transfer

has been made, he will immediately inform the transferee that the mortgage requires the owner to provide and maintain adequate insurance acceptable to, and with loss payable to, the Agency as mortgagee. The transferee may obtain a new insurance policy or the transferor may have the insurance company or agent issue an endorsement to the current insurance policy changing the name of the assured to that of the transferee. If a new insurance policy is obtained, the old policy or other evidence of insurance will be returned to the transferor unless there is an unsettled loss. If there is an unsettled loss, the policy or other evidence of insurance will not be returned until the claim has been settled. The County Supervisor, with the concurrence of the State Director and the OGC, will notify the borrower and transferee that acceptance of the new policy or endorsement will not constitute consent by the Government to the transfer even though the Government is protected by a loss payable clause in such an insurance policy.

(ii) In a transfer with assumption, insurance will be required in the same amount and according to the same provisions as for an initial loan of the same type.

(3) *Voluntary conveyance of property to the Government and foreclosure.* Insurance will not be carried on buildings which the Government has acquired. After a foreclosure sale has been held, or after a deed of conveyance to the Government in lieu of foreclosure has been filed for record, insurance will not be maintained by the Government (whether or not subject to redemption).

[41 FR 34571, Aug. 16, 1976, as amended at 42 FR 33262, June 30, 1977; 50 FR 39638, Sept. 30, 1985; 54 FR 35869, Aug. 30, 1989; 57 FR 36590, Aug. 14, 1992; 69 FR 69103, Nov. 26, 2004; 80 FR 9865, Feb. 24, 2015]

§ 1806.5 Losses.

(a) *Protecting property.* It is the responsibility of the borrower to immediately notify the County Supervisor and insurance company or agent of any loss or damage to insured property and collect the amount of the loss. When the County Supervisor learns of a loss to property which secures an Agency loan, he will:

(1) Check the borrower's casefile for an insurance policy or other evidence of insurance. When a policy or other evidence of insurance has not been retained by the Agency, such as for FP and section 502 RH borrowers, the County Supervisor will determine whether the property was insured and whether the Agency was named as mortgagee in the insurance policy.

(2) Determine that the borrower has taken such steps as are necessary to protect the interest of the Agency in the security property against further damage. When serious problems arise with respect to protecting the property from further damage, the borrower cannot or will not arrange adequate protection for the property, or when legal action appears to be necessary, the County Supervisor will arrange for emergency protection and immediately refer the case with complete information to the State Director.

(b) *Loss covered by insurance.* (1) If the Agency is listed as mortgagee in the insurance policy, the County Supervisor will collect the amount of the loss and may consent to the borrower using funds to repair or replace damaged or destroyed property or to apply loss proceeds to his loan account or to any prior liens that might exist in the order of their priority.

(2) If the Agency is not listed as mortgagee in the insurance policy, the County Supervisor will contact the borrower to determine whether he has received the loss proceeds. If the borrower has received the loss proceeds but not yet paid for improvements to repair or replace the property, or has not received the loss proceeds the County Supervisor will:

(i) Notify the insurance company in writing of the Agency's interest in the security property and request that the loss proceeds be made payable jointly to the Agency and the borrower.

(ii) Inform the borrower of his responsibility for repairing or replacing the damaged or destroyed property or for authorized disposition of the loss proceeds as outlined in paragraph (b)(1) of this section.

(c) *Loss drafts—when loan is secured by a first mortgage.* (1) A loss draft which

in the opinion of the County Supervisor represents a satisfactory adjustment of the loss will be endorsed immediately without recourse and deposited in a supervised bank account to be used in repairing or replacing the damaged building, except:

(i) Where the amount of the loss is $1,000 or less and the borrower will use the funds for repairing or replacing an essential building, the loss draft may be endorsed without recourse and given to the borrower upon satisfactory proof that the repairs or replacements have been made, or upon satisfactory assurance that the work will be performed.

(ii) When (A) the essential buildings are not to be repaired or replaced and other suitable buildings are not to be erected, or (B) a balance remains after all repairs, replacements, and other authorized disbursements have been made, such insurance funds will be applied on prior liens or as an extra payment to the borrower's loan accounts secured by the real estate or disposed of in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security contained in applicable security servicing regulations for the type loan involved.

(iii) An insurance payment for loss or damage to a nonessential building the borrower voluntarily insured will be (A) applied on prior liens, or to current delinquencies to the Agency or as an extra payment on the borrower's loan accounts secured by real estate, (B) disposed of as authorized by the State Director in accordance with the general principles applicable to the use of proceeds from the sale of a part of the security contained in applicable security servicing regulations for the type loan involved, or (C) used for other purposes as authorized by the State Director if the loan is adequately secured and the loan account is current.

(iv) When the indebtedness secured by the insured property has been paid in full or the draft is in payment for loss of property on which the Agency has no claim, a loss draft which includes the Agency as a joint payee may be endorsed without recourse and delivered to the borrower.

(2) [Reserved]

(d) *Loss drafts—When loan is secured by other than first mortgage.* (1) When the loss draft does not include the interest of a prior mortgagee, it will be processed as provided in paragraph (c) of this section.

(2) When the loss draft includes the interest of a prior mortgagee, the County Supervisor is authorized to endorse and process the draft as follows:

(i) When the prior mortgagee will permit the use of such loss funds to repair or replace the damaged building, the draft may be endorsed without recourse upon satisfactory proof that the repairs or replacements have been made or upon satisfactory assurance that the work will be performed.

(ii) When the amount of the draft does not exceed the amount of the indebtedness then secured by the prior mortgage as stated in writing by the holder of the prior mortgage, and the holder of the prior mortgage has agreed in a written statement to the County Supervisor that he will apply such funds as a payment on the borrower's prior mortgage indebtedness, the draft may be endorsed without recourse.

(iii) When the amount of the draft exceeds the amount of the indebtedness then secured by the prior mortgage, as stated in writing by the holder, and he has agreed in writing to pay such indebtedness from the loss funds, the draft will be endorsed without recourse only after all parties named as payees in the draft have signed an agreement to deliver the draft ''in escrow'' to a bank acceptable to the named parties. The agreement will specify the manner in which the funds will be disbursed by the bank, as escrow agent, to the several mortgagees named in the draft. After the loss funds have been collected by the bank, it will issue cashier's checks in the manner prescribed in the escrow agreement (see exhibit A for suggested form). If this procedure is found to be impractical in an individual instance, the State Director may authorize an alternative method for disbursing the loss funds to protect the Government's financial interest.

(iv) Drafts which have been endorsed by all other payees will be endorsed immediately without recourse. Such drafts or other loss funds will be processed in accordance with the methods

described in paragraph (c) of this section.

(e) *Servicing insurance losses under special circumstances*—(1) *Foreclosures and voluntary conveyances.* Losses on properties in process of foreclosure or voluntary conveyance will be handled with the advice of the OGC. If the necessary cooperation of the borrower cannot be obtained, the State Director, with the advice of the OGC, will determine the proper action to be taken. To the extent feasible from a legal and practical standpoint, all loss payments should be received for a damaged or destroyed building and applied on the borrower's real estate indebtedness before title to the property is taken by the Government through foreclosure sale, voluntary conveyance, or otherwise, unless absolute assignment has been made by the borrower to the Government of all loss funds due from the insurance company.

(2) *Subrogation agreements.* When a company claims nonliability to the borrower and subrogation to the rights of the Agency, the County Supervisor will forward a full report of the facts in the case to the State Director. The State Director will upon advice from OGC, instruct the County Supervisor regarding further action to be taken.

(f) *Repairs and replacements.* When any loss payments have been deposited in a supervised bank account, all repairs and replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in the same manner as improvements financed with loan funds.

(g) *Completing adjustment.* The borrower must complete the adjustment of the loss with the company or its authorized representatives. The County Supervisor, upon request of the borrower may consult with the borrower regarding the loss adjustment, but will not enter into negotiations with insurance adjusters or company representatives relative to the adjustment or settlement of losses on borrower property, or make any commitments, or sign any forms in connection with the adjustment of the loss. The Agency will not waive any rights which it may have against the company except when the borrower's account or the Agency claim has been paid-in-full.

(1) The County Supervisor will maintain a proper followup on all losses until satisfactory settlement has been made by the company.

(2) Where the County Supervisor has evidence that the adjustment agreed to by the borrower is significantly less than the amount of damage to which the borrower is entitled under the terms of the policy, the loss draft accompanied by a report will be sent to the State Director so that he may reopen the adjustment, if he considers it is in the interest of the Agency to do so.

(3) When it appears evident that the amount of the loss is $1,000 or less, the County Supervisor may rely on estimates of contractors, building supply firms, reliable carpenters, or other evidence rather than personal inspection in determining whether the adjustment is equitable and the Government's interest is protected.

(h) *Reinstatement after loss.* In cases where insurance in the amount of the loss is not reinstated automatically by the provisions of the policy, it will be the responsibility of the County Supervisor to have the borrower reinstate as much of the insurance as may be necessary to fulfill the requirements of the Agency.

(i) *Losses not covered by insurance.* When a loss occurs and insurance is not in force, the County Supervisor will:

(1) Inform the borrower that he has violated the security instrument by not providing insurance coverage and that it is his responsibility to make the needed replacements or repairs.

(2) If the borrower is unable or unwilling to make needed repairs or replacements from his own resources, the County Supervisor will submit complete information to the Agency official authorized to determine whether the Agency will or will not continue with the loan. The County Supervisor's report will include recommendations on the following items:

(i) The advisability and possibility of making a subsequent loan to pay for needed repairs.

(ii) Subordination of the Agency real estate lien to permit the borrower to

obtain funds for needed repairs from another source.

(iii) The possibility of the borrower obtaining funds secured by a junior lien from another source.

(iv) Whether an advance is needed to protect the Government's interest in the property.

(3) If the loan will not be continued with the borrower, it must be serviced in accordance with the applicable Instructions.

(4) If the borrower has improperly disposed of loss proceeds, the County Supervisor will refer the case with complete information and recommendations to the State Director. The State Director will consult the Regional Attorney when necessary and advise the County Supervisor as to appropriate servicing actions.

[41 FR 34571, Aug. 16, 1976, as amended at 50 FR 39638, Sept. 30, 1985; 80 FR 9865, Feb. 24, 2015]

§ 1806.6 Failure of borrower to provide insurance.

When a borrower fails to provide and maintain property insurance which meets the requirements set forth in § 1806.2 of this subpart, every effort will be made to have the borrower provide coverage acceptable to the Agency. It will be emphasized that under the terms of the security instrument, it is the borrower's responsibility to provide and maintain proper insurance coverage. Existing borrowers required to escrow will be notified by letter at least 90 days prior to initiating escrowing for insurance. Failure to provide insurance is a nonmonetary default and will be a consideration in determining if the loan is to be continued. For FP or SFH borrowers *not* required to escrow, the County Supervisor will obtain insurance coverage and voucher for the insurance premium only in cases where: An unusual and severe hazard, such as recurring fires or unstable ground conditions, exists, or, an SFH borrower on a moratorium is unable to pay the insurance premium and the borrower requests that the Agency pay the premium. For SFH borrowers required to escrow, force placed insurance will be obtained if the borrower fails to provide acceptable insurance. Borrowers being phased into escrow will be given at least 30 days to obtain coverage, after which force placed insurance will be obtained. If the escrow account contains insufficient funds to pay the insurance when due, the County Supervisor will request the borrower to pay an amount equal to the difference between the premium due and the escrow balance in a lump sum within 30 days after notification. If the borrower fails to remit the amount requested, the amount will be advanced and charged to the borrower's account as a recoverable cost. The amortization period for an advance due to an escrow shortage will be one year. Insurance coverage shall be provided continuously unless the property is acquired by the Agency. The cost of obtaining such a policy shall be advanced and charged to the borrower's account as a recoverable cost. Amortization of the charge will be handled in accordance with 7 CFR part 3550. If a borrower indebted for other than an FP or SFH loan fails to provide acceptable insurance, the Servicing Official will take the following action:

(a) *Expired policies.* (1) The County Supervisor will request the insurance agency or broker who issued the expired policy to issue a new policy which is acceptable to the Agency.

(i) The new policy will be effective as of the date of the County Supervisor's contact with the insurance agency or broker or as soon thereafter as possible, and will be for a term of one year. If State insurance regulations require a longer term, the State Director will issue a State Instruction authorizing County Supervisors to obtain policies for the minimum period permitted by State insurance regulations.

(ii) The Agency will be shown in the loss payable clause and in the mortgage clause in the proper order of priority.

(iii) Insurance coverage on each building usually will be the same as shown on the expired policy if it meets or exceeds Agency requirements. If the coverage shown on the expired policy does not meet Agency requirements, proper coverage will be obtained.

(iv) The County Supervisor will, if possible, have an automatic renewal provision included in the policy.

(v) If the borrower refuses to pay the insurance premium with his own funds or arrange with the agent for subsequent payment by premium not or otherwise, the County Supervisor will pay the amount of the insurance premium in accordance with RD Instruction 2024–A. The amount of the premium payment will be charged to the borrower's Agency account with the highest lien priority as a recoverable cost item.

(vi) If the insurance agency or broker who issued the expired policy refuses to issue a new policy, the County Supervisor will have the borrower designate in writing another insurance agency or broker from whom the insurance can be obtained.

(vii) After the County Supervisor and the borrower exhaust all efforts to obtain acceptable insurance, the County Supervisor will request advice from the State Office as to companies issuing acceptable policies in the State and from which the borrower might be able to obtain an acceptable policy. If the borrower still cannot obtain an acceptable policy from any such company, and the determination has been made to continue with the borrower, the County Supervisor will temporarily accept from the borrower the available insurance policy the Agency determines most nearly conforms to the requirements of § 1806.2 of this subpart.

(A) In making this determination, the following deficiencies become more objectionable in the order from (*1*) to (*5*) paragraphs (a)(1)(vii)(A) of this section:

(*1*) A policy written for an initial term of less than one year.

(*2*) A policy which will insure the most essential buildings but will not cover all essential buildings.

(*3*) A policy which covers major risks such as fire and lightning, but does not include one or more of the other risks specified in § 1806.2(8).

(*4*) A policy for a lesser amount of insurance than is required by § 1806.3.

(*5*) A policy that is issued by a company which is not licensed to do business in the State or otherwise does not meet the requirements of § 1806.3.

(B) Whenever adequate insurance becomes available, the County Supervisor will require the borrower to deliver to the County Office an acceptable insurance policy. The temporary policy will be returned to the borrower for cancellation after all losses claimed under the policy have been settled.

(C) If the borrower is unable to furnish a property insurance policy of any kind, he is still responsible for the debt in the event of loss.

(D) If the County Supervisor accepts an inadequate insurance policy under these conditions or the borrower fails to furnish any insurance policy, the County Supervisor will include in his report to the State Director an explanation of the efforts he and the borrower made to obtain acceptable insurance and his justification for accepting an inadequate policy, or for not obtaining an insurance policy of any kind.

(b) *Insurance canceled for reasons other than nonpayment of insurance premium.* (1) The County Supervisor, immediately upon receipt of a 10-day notice of cancellation for a policy, will urge the borrower to provide acceptable insurance.

(2) If the borrower fails to provide acceptable insurance before the cancellation is effective, the County Supervisor will contact the insurance agency or broker who issued the insurance policy to determine the reasons for cancellation and, if possible, have the policy reinstated.

(3) If the insurance company will not reinstate the policy, the County Supervisor will attempt to obtain an acceptable insurance policy from another agency or broker in accordance with the provisions of paragraph (a) of this section.

(c) *Insurance canceled for nonpayment of premium.* (1) The County Supervisor, immediately upon receiving a 10-day cancellation notice for a policy, will, if possible, contact the borrower in an effort to have him pay the insurance premium from his own funds or arrange with the agent for subsequent payment by premium note, or otherwise.

(2) If the borrower does not pay or arrange to pay the premium before the policy cancellation is effective, the County Supervisor will, before the cancellation becomes effective, notify the insurance company or broker by certified mail (return receipt requested), that the Agency as mortgagee (or

trustee) will pay the premium for one year to continue the policy in effect for that period. The County Supervisor will, in accordance with RD Instruction 2024–A, pay the amount of the premium for a period of one year. The amount of the premium will be charged to the borrower's loan account as a recoverable cost item.

(3) If a property insurance mortgage clause other than Form RD 426–2 is used in connection with the policy and the insurance company or broker refuses to accept payment from the Agency in this manner to reinstate or continue the policy, the County Supervisor will attempt to obtain an acceptable insurance policy from another insurance company or broker in accordance with the provisions of paragraph (a) of this section.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegation of authority by Director OEO 29 FR 14764, 33 FR 9850)

[41 FR 34571, Aug. 16, 1976, as amended at 42 FR 33263, June 30, 1977; 43 FR 34430, Aug. 4, 1978; 50 FR 39638, Sept. 30, 1985; 56 FR 6945, Feb. 21, 1991; 57 FR 36590, Aug. 14, 1992; 67 FR 78326, Dec. 24, 2002; 80 FR 9865, Feb. 24, 2015]

EXHIBIT A TO SUBPART A OF PART 1806—ESCROW AGREEMENT REAL PROPERTY INSURANCE

Date _____
(Name of bank) _____
(City or town) _____
(State) _____

Gentlemen: Attached is Draft No. _____, for $_____, issued by the _____ Insurance Company in payment of _____ loss which damage the buildings on the farm of _____, of _____ County, State of _____.

This draft has been endorsed by the undersigned payees who request that you collect these funds and issue cashier's checks to the following payees for the following amounts:

_____, First Mortgage $_____
_____, Second Mortgage $_____
_____, Third Mortgage $_____

The balance only, if any, will be paid to _____, the owner of the property.

First Mortgagee _____
Second Mortgagee _____
Third Mortgagee _____
Owner _____

Subpart B—National Flood Insurance

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 42 U.S.C. 2942; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 38 FR 14944 (7 CFR 2.23); delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952 (7 CFR 2.70).

SOURCE: 39 FR 17093, May 13, 1974, unless otherwise noted.

§ 1806.21 General.

(a) *Authority.* This subpart prescribes the policies and procedures to be followed in implementing the National Flood Insurance Act of 1968 as amended by the Flood Disaster Protection Act of 1973. The provisions of these Acts are applicable to Rural Development and Farm Service Agency, herein referred to as the ''Agency'' authorities permitting financing of buildings of any type now located in or to be located in special flood or mudslide prone areas as designated by the Federal Insurance Administration (FIA) of the Department of Housing and Urban Development (HUD), and any machinery, equipment, fixtures and furnishings contained or to be contained therein. This subpart does not apply to Farm Service Agency, Farm Loan Programs and to Rural Rental Housing, Rural Cooperative Housing, or Farm Labor Housing programs of the Rural Housing Service.

(b) *Background.* The Congress has found that annual losses throughout the nation caused by floods and mudslides are increasing at an alarming rate, largely as a result of the accelerated development and concentration of populations in areas subject to floods and mudslides. The availability of Federal funds in the form of loans, grants, guarantees, insurance and other forms of financial assistance are often determining factors in the utilization of land and the location and construction of industrial, commercial and residential facilities.

(c) *Scope.* The National Flood Insurance Program (the program) was authorized and created because the private insurance industry has been unable to provide insurance coverage at

reasonable prices for such natural disasters as floods and mudslides. Subsidized and affordable insurance has been made available under the Act through an agreement between the Federal Insurance Administration and the National Flood Insurers Association.

[39 FR 17093, May 13, 1974, as amended at 69 FR 69103, Nov. 26, 2004; 72 FR 64121, Nov. 15, 2007; 80 FR 9865, Feb. 24, 2015]

§ 1806.22 Areas of responsibility.

(a) *Federal Insurance Administration (FIA).* (1) Identify and publish information with respect to all areas in the country which are subject to floods and mudslides and designate those areas on Flood Hazard Boundary maps.

(2) Notify affected communities of their designations and encourage them to adopt and enforce land use and other control measures and to adopt ordinances or laws which will regulate and control construction in areas designated as having special flood or mudslide hazards.

(3) Make flood insurance available at reasonable rates in sufficient amounts, within the statutory limits, to adequately protect owners against loss to their buildings and contents when those buildings are located in or will be located in designated special flood and mudslide prone areas in communities participating in the National Flood Insurance Program.

(b) *The Agency.* The State Director, after being notified by the National Office or FIA of designated flood or mudslide hazard areas and receiving flood hazard boundary maps identifying the hazard areas, FIA insurance rate charts, or other information concerning the program, will inform the appropriate County Supervisors and provide them the maps, rate charts, and other relevant information concerning the program in areas they serve. Permanent records indicating the date a community was notified as containing identified flood hazard areas, communities participating in the program, and communities eligible to participate but not participating in the program will be maintained in the State Office. County Supervisors will notify, in writing, those borrowers whose insurable buildings are located in designated flood or mudslide hazard areas of the availability of national flood insurance and encourage them to obtain flood insurance to protect their and the Government's financial interest.

(c) *Community.* Communities are required to participate in the National Flood Insurance Program within 1 year after notification of its formal identification as a community containing one or more special flood and mudslide prone areas, or by July 1, 1975, whichever is later, or be denied Federal financial assistance or Federally-related financial assistance for acquisition or construction purposes in such areas. Communities wishing to qualify for the program may submit a completed application to: Administrator, Federal Insurance Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

(d) *Lender.* The lender must determine whether real property is located in an area identified as having special flood or mudslide hazards and cannot discharge the responsibility merely by obtaining a self-certification from the applicant that the property is not located in an area having special flood hazards.

[39 FR 17093, May 13, 1974, as amended at 80 FR 9865, Feb. 24, 2015]

§ 1806.23 Definitions.

For the purpose of this subpart, the following definitions apply:

(a) *Financial assistance* means any form of direct, insured or guaranteed loan, including reamortization and assumption on new terms of any loan, any form of grant, or other form of direct or indirect assistance extended by the Agency.

(b) *Financial assistance for acquisition or construction purposes* means any form of Federal financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, or substantial improvement of any building and for any machinery, equipment, fixtures and furnishings contained or to be contained in such buildings.

(c) *Community means* any state or political subdivision thereof, such as county, parish, township, city or other

local government which has zoning and building code jurisdiction over a particular area having special flood hazards.

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

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

(f) *Flood* means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers, or other inland water, the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, or abnormally high tidal water or rising coastal waters resulting from severe storms, hurricanes, or tidal waves resulting from volcano eruptions or earthquakes.

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

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

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

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

[39 FR 17093, May 13, 1974, as amended at 80 FR 9865, Feb. 24, 2015]

§ 1806.24 Eligibility.

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

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

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

§ 1806.25 Conditions.

The Agency financial assistance may be extended to eligible applicants meeting the eligibility requirements of §1806.24 of this subpart, provided the following conditions are also met:

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

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

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

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

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

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

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

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

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

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

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

(c) *Flood insurance coverage.* (1) Any property on which flood insurance is required must be covered by such insurance during its anticipated economic and useful life in an amount at least equal to its development or replacement cost (except estimated land cost), or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Program, whichever is less. However, if the financial assistance provided is in the form of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan.

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

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

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

[39 FR 17093, May 13, 1974, as amended at 52 FR 8002, Mar. 13, 1987; 56 FR 6945, Feb. 21, 1991; 80 FR 9865, Feb. 24, 2015]

§ 1806.26 Coverage and premium rates.

Exhibit A sets forth limits of coverage and chargeable premium rates under the program. Insurance policies under the program can be obtained from any licensed property insurance agent or broker serving the eligible community or from the National Flood Insurers Association Serving Company (Serving Company) for the state. The Servicing Company for each state is shown in exhibit B.

§ 1806.27 Acceptable policies and servicing.

The general acceptance of policies and servicing of insurance will be performed in accordance with Subpart A of this part. Any unusual situations that may arise with respect to obtaining or servicing flood insurance should be referred to the State Director. The State Director will attempt to resolve any problems concerning the flood insurance program in the state with the Servicing Company. Flood hazard boundary maps, insurance rate tables, the insurability of specific structures, and other information concerning the program may be obtained from the Servicing Company. Difficulties in administering the program which the State Director is unable to resolve should be referred to the National Office for Assistance.

§ 1806.28 Borrowers required to escrow.

For borrowers required to use escrow accounts for the payment of real estate taxes and insurance, the flood insurance premium will be paid when due from funds contained in the escrow account. If the escrow account contains insufficient funds to pay the flood insurance premium when due, the County Supervisor will request the borrower to pay an amount equal to the difference between the premium due and the escrow balance in a lump sum within 30 days after notification. If the borrower fails to remit the amount requested, the amount will be advanced and charged to the borrower's account as a recoverable cost. The amortization period for an advance due to an escrow shortage will be one year. Amortization of the charge will be handled in accordance with7 CFR part 3550. When a borrower has more than one loan secured by the real estate on which the flood insurance premium is being paid, the advance will be charged to the initial or lowest numbered loan.

[56 FR 6946, Feb. 21, 1991, as amended at 67 FR 78326, Dec. 24, 2002]

EXHIBIT A TO SUBPART B OF PART 1806—COVERAGE AND PREMIUM RATES

1. The following table sets forth the limits of coverage available under the program:

Type of structure	Structure coverage		Contents of coverage [4]	
	Subsidized	Total [3]	Subsidized	Total [3]
Single family, residential [1]	$35,000	$70,000	$10,000	$20,000
All other, residential [1]	100,000	200,000	10,000	20,000
All nonresidential [2]	100,000	200,000	100,000	200,000

[1] For Alaska, Hawaii, and the Virgin Islands, the following limits of coverage apply: Structure coverage for one family residential is $50,000 subsidized and $100,000 total coverage, and structure coverage for other residential is $150,000 subsidized and $300,000 total coverage.

[2] Includes hotels and motels with normal occupancy of less than 6 months.

[3] Coverage in amounts exceeding the subsidized limits is available only after an actuarial cost has been established and flood insurance rate may be issued.

[4] Contents of a building must be insured separately from the building. However, coverage is applicable to contents only while in an enclosed building. Therefore, coverage cannot be written on the contents of a three-walled machinery shed or a similar type open building.

2. The following table sets forth the applicable premium rates:

Type of structure	Rates per $100 of coverage (subsidized only)	
	Structures	Contents
All residential	[1] $0.25	$0.35
All nonresidential	[1] .40	.75

[1] Actuarial (nonsubsidized) rates are applicable to any structure, the construction or substantial improvement of which started after Dec. 31, 1974, or the date on which the initial rate map was issued, whichever is later, in identified areas having special flood or mudslide hazards.

EXHIBIT B TO SUBPART B OF PART 1806—SERVICING COMPANY

The servicing company office to be contacted for information relative to the availability of coverage under the national flood insurance program, flood hazard boundary maps, insurance rate tables, and related material.

E.D.S. Federal Corporation, National Flood Insurance, P.O. Box 34294, Bethesda, Md. 20034, phone toll-free 800–638–6620; commercial phone 301–898–5900.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

[43 FR 18538, May 1, 1978]

PARTS 1807–1809 [RESERVED]