

other evidence of substantial damage; or

(2) For permanent structures other than manufactured homes, inundation of 5 feet or more of water above the first above-ground habitable floor or other evidence of substantial damage. Habitable floors do not include basements.

(B) Were red- or yellow-tagged and declared uninhabitable due to environmental contamination by floodwaters, or otherwise determined to be uninhabitable by a State or local official under current codes or ordinances; or

(C) Were demolished due to damage or environmental contamination by floodwaters.

(xii) Information regarding whether the structure is on the NFIP repetitive loss list (provide NFIP Repetitive Loss Property Locator Number, if available); and

(xiii) Observations on whether acquisition or elevation of the structure may result in a mixture of vacant lots and lots with structures remaining on them; and

(10) *FEMA review and approval.* We will review and verify the State's eligibility determination and either approve, deny, or request additional information within 60 days. The Regional Director may extend this timeframe if complicated issues arise. We have final approval authority for funding of all projects.

(Approved under OMB control number 3067-0279).

[66 FR 32669, June 15, 2001; 66 FR 49554, Sept. 28, 2001]

#### § 209.9 Appeals.

The State may appeal any decision that we make regarding projects submitted for funding in the Supplemental Property Acquisition and Elevation Assistance program. The State must submit the appeal in writing to the Regional Director and must include documentation that justifies the request for reconsideration. The appeal must specify the monetary figure in dispute and the provisions in Federal law, regulation, or policy with which the appellant believes the initial action was inconsistent. The applicant must appeal within 60 days of the applicant's receipt of our funding decision. The State

must forward any appeal from an applicant or subgrantee with a written recommendation to the Regional Director within 60 days of receipt. Within 90 days following the receipt of an appeal, the Regional Director will notify the State in writing as to the new decision or the need for more information.

#### § 209.10 Project implementation requirements.

Subgrantees must enter into an agreement with the State, with the written concurrence of the Regional Director, that provides the following assurances:

(a) The subgrantee will administer the grant and implement the project in accordance with program requirements, 44 CFR parts 13 and 14, the grant agreement, and with applicable Federal, State, and local laws and regulations.

(b) The State and subgrantee will administer the grant in an equitable and impartial manner, without discrimination on the grounds or race, color, religion nationality, sex, age, or economic status in compliance with section 308 of the Stafford Act (42 U.S.C. 5151) and Title VI of the Civil Rights Act. In implementing the grant, the State and the subgrantee will ensure that no discrimination is practiced.

(c) The State and subgrantee will ensure that projects involving alterations to existing structures comply with all applicable State and local codes.

(d) The State and subgrantee will ensure that projects comply with applicable State and local floodplain management requirements. Structures will be elevated to the Base Flood Elevation.

(e) Property owners participating in acquisition projects may receive assistance up to the pre-event fair market value of their real property, except as limited by the eligibility criteria.

(f) The subgrantee will establish a process, which we must approve, whereby property owners participating in acquisition projects may request a review of the appraisal for their property, or request a second appraisal.

(g) The State will reduce buyout assistance by any duplication of benefits from other sources. Such benefits include, but are not limited to, payments