

§ 68.2

§ 68.2 Definitions.

The definitions set forth in part 59 of this subchapter are applicable to this part.

[47 FR 23449, May 29, 1982, as amended at 49 FR 33879, Aug. 27, 1984]

§ 68.3 Right to administrative hearings.

If a community appeals the Administrator's flood elevation determination established pursuant to § 67.8 of this subchapter, and the Administrator has determined that such appeal cannot be resolved by consultation with officials of the community or by submitting the conflicting data to an independent scientific body or appropriate Federal agency for advice, the Administrator shall hold an administrative hearing to resolve the appeal.

[47 FR 23449, May 29, 1982, as amended at 49 FR 33879, Aug. 27, 1984]

§ 68.4 Hearing board.

(a) Each hearing shall be conducted by a three member hearing board (hereinafter "board"). The board shall consist of a hearing officer (hereinafter "Judge") appointed by the Director based upon a recommendation by the Office of Personnel Management and two members selected by the Judge who are qualified in the technical field of flood elevation determinations. The Judge shall consult with anyone he deems appropriate to determine the technical qualifications of individuals being considered for appointment to the board. The board members shall not be FEMA employees.

(b) The Judge shall be responsible for conducting the hearing, and shall make all procedural rulings during the course of the hearing. Any formal orders and the final decision on the merits of the hearing shall be made by a majority of the board. A dissenting member may submit a separate opinion for the record.

(c) A technically qualified alternate will be appointed by the Judge as a member of the board when a technically qualified appointed member becomes unavailable. The Director will appoint an alternate Judge if the appointed Judge becomes unavailable.

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§ 68.5 Establishment of a docket.

The General Counsel shall establish a docket for appeals referred to him/her by the Administrator for administrative hearings. This docket shall include, for each appeal, copies of all materials contained in the flood elevation determination docket (FEDD) file on the matter, copies of all correspondence in connection with the appeal, all motions, orders, statements, and other legal documents, a transcript of the hearing, and the board's final determination.

[47 FR 23449, May 29, 1982, as amended at 49 FR 33879, Aug. 27, 1984]

§ 68.6 Time and place of hearing.

(a) The time and place of each hearing shall be designated by the Judge for that hearing. The Administrator and the General Counsel shall be promptly advised of such designations.

(b) The board's notice of the time and place of hearing shall be sent by the Flood Insurance Docket Clerk by registered or certified mail, return receipt requested, to all appellants. Such notice shall include a statement indicating the nature of the proceedings and their purpose and all appellants' entitlement to counsel. Notice of the hearing shall be sent no later than 30 days before the date of hearing unless such period is waived by all appellants.

[47 FR 23449, May 29, 1982, as amended at 49 FR 33879, Aug. 27, 1984]

§ 68.7 Conduct of hearings.

(a) The Judge shall be responsible for the fair and expeditious conduct of proceedings.

(b) The Administrator shall be represented by the General Counsel or his/her designee.

(c) One administrative hearing shall be held for any one community unless the Administrator for good cause shown grants a separate hearing or hearings.

(d) The Chief Executive Officer (CEO) of the community or his/her designee shall represent all appellants from that community; *Provided*, That any appellant may petition the board to allow such appellant to make an appearance on his/her own behalf. Such a petition