

(3) The decision of the FEMA official at the next higher appeal level shall be the final administrative decision of FEMA.

[63 FR 17111, Apr. 8, 1998]

PARTS 207–208 [RESERVED]

PART 209—SUPPLEMENTAL PROPERTY ACQUISITION AND ELEVATION ASSISTANCE

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AUTHORITY: Pub. L. 106-113, Div. B, sec. 1000(a)(5) (enacting H.R. 3425 by cross-reference), 113 Stat. 1501, 1536; Pub. L. 106-246, 114 Stat. 511, 568; Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412.

SOURCE: 66 FR 32669, June 15, 2001, unless otherwise noted.

§ 209.1 Purpose.

This part provides guidance on the administration of a program to provide supplemental property acquisition and elevation assistance made available by Congress to provide funds for the acquisition or elevation, for hazard mitigation purposes, of properties that have been made uninhabitable by floods in areas that were declared major disasters in federal fiscal years 1999 and 2000.

§ 209.2 Definitions.

Except as noted in this part, the definitions listed at §§ 206.2 and 206.431 apply to the implementation of this part.

Allowable open space uses means recreational and wetland management uses including: Parks for outdoor rec-

reational activities; nature reserves; cultivation; grazing; camping (except where adequate warning time is not available to allow evacuation); temporary storage in the open of wheeled vehicles which are easily movable (except mobile homes); unimproved, permeable parking lots; and buffer zones. Allowable uses generally do not include walled buildings, flood reduction levees, highways or other uses that obstruct the natural and beneficial functions of the floodplain.

Applicant means a State agency, local government, or qualified private non-profit organization that submits an application for acquisition or elevation assistance to the State or to FEMA.

Cost-effective means that the mitigation activity will not cost more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future disasters were to occur. Both costs and benefits will be computed on a net present value basis. The State will complete an analysis of the cost effectiveness of the project, in accordance with FEMA guidance and using a FEMA-approved methodology. FEMA will review the State's analysis.

Pre-event fair market value means the value a willing buyer would have paid and a willing seller would have sold a property for had the disaster not occurred.

Principal residence means a residence that is occupied by the legal owner and is the dwelling where the legal owner normally lives during the major portion of the calendar year.

Qualified alien means an alien who meets one of the following criteria:

- (1) An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);
- (2) An alien granted asylum under section 208 of the INA;
- (3) A refugee admitted to the United States under section 207 of the INA;
- (4) An alien paroled into the United States under section 212(d)(5) of the INA for at least one year;
- (5) An alien whose deportation is being withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or section 241(b)(3) of the INA;
- (6) An alien granted conditional entry pursuant to section 203(a)(7) of