Parameters for the Flood Mapping Scientific Resolution Panel

FEMA

The Administrator of Federal Emergency Management Agency (FEMA) is making available an independent scientific body (hereafter referred to as the Scientific Resolution Panel) that can be convened when deemed necessary by FEMA or a joint agreement of FEMA and a community appellant. The Scientific Review Panel will review and resolve conflicting data related to proposed Base Flood Elevations (BFEs) as provided for in the National Flood Insurance Act, as amended by (42 USC 4104(e); 44 CFR Part 67.8).

National Flood Insurance Program (NFIP) participating communities are strongly urged to collaborate with FEMA throughout the study of their flood hazards, providing available data, models, and other scientific information that would enhance the final Flood Insurance Rate Map and avoid appeals. When such appeals are necessary, community consultation is the preferred method of resolution. Such consultation allows for collaborative evaluation and discussion of the conflicting data between FEMA and the appellant and usually facilitates a mutually acceptable resolution. On occasions when community consultation cannot produce a mutually acceptable resolution, the Panel will be made available. The Panel will be made up of experts on hydrology, hydraulics, and other pertinent sciences, as they apply to the development of Base Flood Elevations (BFEs)for FEMA flood studies.

Basis of Appeal:

- A community must submit an appeal to FEMA during the regulatory 90 day appeal period.
- The regulations require appeal submissions to include technical or scientific data. The appeal documentation must include alternative BFEs which, through the use of "alternative methods or applications result in more correct estimates of base flood elevations, thus demonstrating that FEMA's estimates are incorrect" (44 CFR Part 67).

Utilization of the Panel:

- After at least 60 days of community consultation on a submitted appeal have elapsed, the appellant community can elect to bring their appeal to the Panel. A community, whether working on its own behalf or that of interested parties, must serve as the official appellant.
- The appellant community must elect to bring their appeal to the Panel no later than 120 days after the submission of the appeal to FEMA.
- In instances where a good faith consultation between FEMA and the appellant exceeds the 120-day aforementioned deadline and does not result in a final resolution, FEMA may choose to submit the appeal to the Panel for resolution.
- FEMA will make initial determinations whether the submission includes sufficient information to qualify as a valid appeal pursuant to 44 CFR Part 67 or is simply a statement of protest.

Panel Sponsor

The Panel will be under the operational direction of a Panel Sponsor. The Panel Sponsor will be an organization selected by FEMA and will be:

- Independent from FEMA and other influences such that findings of Panels will be deemed neutral and independent from FEMA or associated influence.
- Capable of receiving reimbursement of costs from FEMA.
- Not subject to the Federal Advisory Committee Act.

The Panel Sponsor will be responsible for:

- Selecting and maintaining a cadre of scientific experts in surface water hydrology, hydraulics, coastal engineering, and other engineering and scientific fields that relate to the creation of Flood Hazard Maps and Flood Insurance Studies throughout the United States.
- Identifying a list of potential panel members from the cadre of experts based on the technical challenges of the specific appeal.
- Employing for panel operations an individual familiar with the principles of the NFIP statute and regulations.

Panel Composition

- A panel of up to 5 members will be chosen from the Panel Sponsor's pre-qualified list.
- The appellant chooses a simple majority, and FEMA chooses the remaining panelists.
- The Panel may include representatives from Federal agencies not involved in the mapping study in question and other impartial experts. The Sponsor must ensure panelists have no personal or professional interest in the appeal and do not reside in the State from which the appeal has been filed.
- FEMA employees cannot serve on the Panel.

Role of the Panel

- Following deliberations, the Panel shall render a written decision that rejects or supports an appeal as filed.
- The Panel will make a determination based on knowledge or information submitted by the appellant, indicating whether the BFEs proposed by FEMA are scientifically or technically incorrect.
- A report containing the Panel's rationale and decision will be made available to the public.
- The Panel must expeditiously make its determination about the appeal and present its public report no later than 150 days after the appeal is brought to the Panel.

Decisions of the Panel

- The Panel's determination will become the recommendation to the Administrator for appeal resolution; the Panel's determination will not be subject to further staff review within FEMA.
- Subject to final review and approval by the Administrator, FEMA will incorporate Panel findings and determinations into revised preliminary Flood Insurance Rate Maps and Flood Insurance Studies, as applicable per Regulation.
- When changes in the FIRMs are required, FEMA will make a revised Preliminary FIRM available to the community for review prior to issuing the Letter of Final Determination.
- The appellant will be encouraged to accept the determination of the Panel. If the appellant is not satisfied, the appellant may appeal to the appropriate United States District Court, pursuant to 44 CFR 67.12.

Implementation

- This process will be available to all community appellants beginning on November 1, 2010.
- In instances where an appeal is currently in the consultation phase, but which has not had a Final Determination issued, that community appellant will have until January 15, 2011, to request their appeal be brought to the Panel for disposition. FEMA will have the authority to offer the Panel resolution process to other existing appellants as it determines.