

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: December 22, 2008.

Michael K. Buckley,

Acting Assistant Administrator, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-B-1026]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1 percent annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents, and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before April 6, 2009.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each

community are available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA-B-1026, to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151, or (e-mail) bill.blanton@dhs.gov.

FOR FURTHER INFORMATION CONTACT:

William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151 or (e-mail) bill.blanton@dhs.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

Administrative Procedure Act Statement. This matter is not a

rulemaking governed by the Administrative Procedure Act (APA), 5 U.S.C. 553. FEMA publishes flood elevation determinations for notice and comment; however, they are governed by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and do not fall under the APA.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Otero County, New Mexico, and Incorporated Areas				
Beeman Canyon Creek	From where the Flow Path meets the Dam	+4440	+4442	City of Alamogordo, Unincorporated Areas of Otero County.

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Flow Path #12	Approximately 1906 feet upstream from North Scenic Drive to the Limit of Study.	None	+4603	Unincorporated Areas of Otero County.
	Approximately 758 feet downstream from Octillo Lane	None	+4471	
Flow Path #16	Approximately 3,560 feet upstream from South canyon Road.	None	+4670	Unincorporated Areas of Otero County.
	Approximately 461 feet downstream from Caneadea Loop.	None	+4461	
Flow Path #2	Approximately 2,904 feet upstream from Rocky Mountain Road to Limit of Study.	None	+4803	Unincorporated Areas of Otero County.
	Approximately 1,450 feet upstream from Dam	None	+4449	
Flow Path #3	Approximately 3,520 feet upstream from the Dam	None	+4481	Unincorporated Areas of Otero County.
	Approximately 741 feet downstream from Eddy drive	None	+4344	
Flow Path #30	Approximately 51 feet upstream from Eddy drive	None	+4350	Unincorporated Areas of Otero County, City of Alamogordo.
	At the Alamogordo City Limits	None	+4122	
Flow Path #31	Approximately 7,117 feet upstream of the Alamogordo City Limits.	None	+4202	Unincorporated Areas of Otero County.
	Approximately 2,617 feet downstream from Lavelle Road.	None	+4270	
	Approximately 2,699 feet downstream from Lavelle Road.	None	+4270	

* National Geodetic Vertical Datum.
 + North American Vertical Datum.
 # Depth in feet above ground.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Alamogordo

Maps are available for inspection at 1376 East Ninth St., Alamogordo, NM 88310

Unincorporated Areas of Otero County

Maps are available for inspection at 1000 New York Ave., Alamogordo, NM 88310.

Niagara County, New York, and Incorporated Areas

Bergholtz Creek	At confluence with Cayuga Creek	+571	+570	City of Niagara Falls, Town of Cambria, Town of Wheatfield.
Bull Creek	Approximately 1.4 miles upstream of NY State Route 425 (Shawnee Road).	None	+631	City of North Tonawanda, Town of Cambria, Town of Pendleton, Town of Wheatfield.
	At confluence with Tonawanda Creek—Backwater area.	+573	+575	
Cayuga Creek	Approximately 240 feet upstream of Lockport Road ...	None	+604	Town of Niagara, Town of Wheatfield.
	Approximately 0.3 mile upstream of Pine Avenue/U.S. Route 62.	+572	+571	
Cayuga Creek West Tributary.	Approximately 70 feet downstream of the first Airport Overpass.	+586	+584	Town of Niagara.
	At the confluence with Cayuga Creek	+578	+579	
Cayuga Creek West Tributary Diversion.	Approximately 240 feet upstream of Lockport Road ...	None	+621	Town of Niagara.
	Just upstream of Porter Road	+583	+582	
Donner Creek	At the confluence with Cayuga Creek West Tributary	+583	+582	City of Lockport, Town of Lockport.
	Approximately 326 feet downstream of Beatie Road ..	+618	+617	
Eighteenmile Creek	Approximately 975 feet upstream of Lincoln Avenue ..	+632	+631	City of Lockport.
	Just downstream of Stone Road	None	+364	
Eighteenmile Creek East Branch.	Approximately 0.41 mile upstream of Stone Road	+363	+364	Town of Newfane.
	Approximately 1,300 feet downstream of Day Road ...	+369	+374	

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Gulf Branch	Approximately 540 feet upstream of Day Road	+373	+374	City of Lockport.
	At confluence with Eighteenmile Creek	+362	+364	
	Approximately 800 feet upstream of confluence with Eighteenmile Creek.	+363	+364	
Johnson Creek 2	Approximately 665 feet downstream of Sherman Road.	None	+476	Town of Hartland, Town of Royalton.
Mud Creek	Approximately 0.19 mile upstream of Telegraph Road	None	+541	Town of Pendleton, Town of Lockport.
	At confluence with Tonowanda Creek	+581	+583	
Sawyer Creek (East)	Approximately 0.63 mile downstream of Minnick Road	+582	+583	City of North Tonawanda, Town of Wheatfield.
	At confluence with Bull Creek	+572	+575	
Sawyer Creek (West)	At the centerline of Ward Road	None	+578	Town of Wheatfield.
	At confluence with Bergholtz Creek	None	+573	
	At the centerline of Ward Road	None	+578	
Tonawanda Creek	Approximately 0.9 mile upstream of Twin Cities Memorial Highway.	None	+572	City of North Tonawanda, Town of Lockport, Town of Pendleton, Town of Royalton, Town of Wheatfield.
	Approximately 2.8 miles upstream of Rapids Road	None	+593	
Town Ditch Number 2	At confluence with Tonawanda Creek	None	+578	Town of Pendleton.
	Approximately 0.8 mile upstream of Campbell Boulevard.	None	+578	
	Approximately 2.0 miles upstream of Fitch Road	+301	+300	
Twelvemile Creek	Approximately 870 feet downstream of Ransomville Road.	+300	+301	Town of Porter, Town of Wilson.

* National Geodetic Vertical Datum.

+ North American Vertical Datum.

Depth in feet above ground.

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ADDRESSES

City of Lockport

Maps are available for inspection at Lockport Municipal Building, One Locks Plaza, Lockport, NY.

City of Niagara Falls

Maps are available for inspection at Niagara Falls City Hall, 745 Main Street, Niagara Falls, NY.

City of North Tonawanda

Maps are available for inspection at North Tonawanda City Hall, 216 Payne Avenue, North Tonawanda, NY.

Town of Cambria

Maps are available for inspection at Cambria Town Hall, 4160 Upper Mountain Road, Sanborn, NY.

Town of Hartland

Maps are available for inspection at Hartland Town Hall, 8942 Ridge Road, Gasport, NY.

Town of Lockport

Maps are available for inspection at Lockport Town Hall, 6560 Dysinger Road, Lockport, NY.

Town of Newfane

Maps are available for inspection at Newfane Town Hall, 2896 Transit Road, Newfane, NY.

Town of Niagara

Maps are available for inspection at Niagara Town Hall, 7105 Lockport Road, Niagara Falls, NY.

Town of Pendleton

Maps are available for inspection at Pendleton Town Hall, 6570 Campbell Boulevard, Lockport, NY.

Town of Porter

Maps are available for inspection at Porter Town Hall, 3265 Creek Road, Youngstown, NY.

Town of Royalton

Maps are available for inspection at Royalton Town Hall, 5316 Royalton Center Road, Middleport, NY.

Town of Wheatfield

Maps are available for inspection at Wheatfield Town Hall, 2800 Church Road, North Tonawanda, NY.

Town of Wilson

Maps are available for inspection at Wilson Town Hall, 375 Lake Street, Wilson, NY.

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Dated: December 22, 2008.

Michael K. Buckley,

Acting Assistant Administrator, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-B-1022]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On December 9, 2008, FEMA published in the **Federal Register** a Proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 73 FR 74673. The table provided here represents the flooding source, location

of referenced elevation, effective and modified elevation, and communities affected for the City of Mosinee, City of Schofield, City of Wausau, Village of Kronenwetter, Village of Rothschild and the Unincorporated Areas of Marathon County, Wisconsin. Specifically, it addresses flooding sources Bull Junior Creek, Eau Claire River and Wisconsin River.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes Proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These Proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more

stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These Proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

Correction

In the Proposed rule published at 73 FR 74673, in the December 9, 2008 issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled "Marathon County, Wyoming and Incorporated Areas" addressed flooding sources Bull Junior Creek, Eau Claire River and Wisconsin River. That table contained inaccurate information as to the location of referenced elevation, effective and modified elevation in feet, or communities affected for these flooding sources. In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in lieu of that previously published.

Flooding sources	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Marathon County, Wisconsin, and Incorporated Areas				
Bull Junior Creek	At the mouth of the Wisconsin River Approximately 450 feet downstream of Old U.S. Highway 51.	+1150 +1150	+1147 +1149	City of Mosinee.
Eau Claire River	At Brooks and Ross Dam Approximately 1.1 miles upstream of Brooks and Ross Dam.	+1167 +1171	+1168 +1169	City of Schofield, City of Wausau.
Wisconsin River	Just upstream of the Dam in the City of Mosinee Just downstream of Rothschild Dam	+1150 +1160	+1147 +1159	Unincorporated Areas of Marathon County, City of Mosinee, Village of Kronenwetter, Village of Rothschild.