

Likewise, the need to establish deed restrictions was also eliminated with the new waste removal remedy.

C. Cleanup of the Site

The details of the remediation activities at the Site, which were performed in two phases by Radian International under COE and EPA oversight, are provided in the Remedial Action Report dated June 5, 2002. The first remediation phase was conducted from July through September of 1998, and included the following major activities:

- Mobilization, including installation of fencing and establishing Site security.
- Purchase and installation of an extensive air monitoring network to instantaneously measure and report the level of hydrogen sulfide (H₂S) at the perimeter of the Site.
- Removal of above-ground items on the field including the baseball benches and backstop, and the basketball backboards.
- Inventory of structures and vegetation on properties adjacent to the field from which waste was to be removed.
- Performance of tests with different stabilizing agents (cement, cement kiln dust and hydrated lime) to demonstrate the effectiveness of the technology.

The second and final phase of the cleanup of the Site began in October 1998, and included the following:

- Installation of test pits and borings to determine the limits of the waste material.
- Installation of a fence around the waste area including the off-site properties.
- Demolition and removal of the remaining above-ground features including the tennis court and retaining walls.
- Stabilization and excavation of approximately 60,000 cubic yards of waste material. The waste material was stabilized using cement kiln dust to reduce the emission of H₂S so that it could be safely excavated and transported off-site for disposal.
- Backfilling of the waste area with clean soil and topsoil.
- Restoration of the Site including design and construction of the park recreational facility.

Stabilization of the waste material began on December 22, 1998 and it was completed in August 1999. Waste removal from Pepe Field and eight adjacent properties began in March 1999 and was completed in late October 1999. Approximately 85,000 tons of waste material were shipped off-site for disposal.

During the cleanup work, waste was found under two adjacent homes on Hillside Avenue. As a result, it was necessary to demolish these homes in order to complete the remediation. Real estate agreements were negotiated with the two affected residents, and in July 2000, excavation of the waste began on the private properties. This waste removal action was completed on August 2, 2000. Backfilling of these properties was also completed in August 2000.

All remedial and restoration activities at the Site required by the ROD and ESD have been completed. In the Fall of 2000, the park was reopened for use by the public. The Site was cleaned up to an unrestricted, residential use standard.

The remediation work and all associated testing was done in accordance with quality assurance and quality control (QA/QC) protocols. Construction activities at the Site were determined to be consistent with the ESD and the remedial design plans and specifications.

Radian International adhered to the approved Contractor Quality Control Plan (CQCP). The Quality Assurance Project Plan (QAPP) incorporated all COE and EPA requirements. All testing and inspections were done in accordance with the construction drawings, technical specifications and QAPP. Construction quality assurance was performed by the COE. The EPA Remedial Project Manager (RPM) visited the Site weekly during construction activities to review construction progress and evaluate and review the results of QA/QC activities.

All procedures and protocol followed for soil, water, air and biological sample analysis during the cleanup are well documented. EPA and the COE determined that analytical results are accurate to the degree needed to assure satisfactory execution of the remediation work.

D. Operation and Maintenance

All remedial activities at the Pepe Field Site are complete and the Site poses no unacceptable risk to human health or the environment. Therefore, no operation and maintenance activities are required at the Site.

E. Five Year Review

The remedial activities at the Pepe Field Site removed all the waste material, and have left the Site suitable for unlimited use and unrestricted exposure. In addition, no institutional controls are required. A five-year review of the remedy is not required, pursuant to CERCLA section 121(c).

F. Community Involvement

Public participation activities for the Pepe Field Site have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and section 117, 42 U.S.C. 9617. The RI/FS, the ROD, ESD, as well as other documents and information which EPA relied on or considered in recommending that no further action is necessary at the Pepe Field Site, and that the property should be deleted from the NPL, are available for the public to review at the information repositories.

G. Site Meets Deletion Criteria

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if all appropriate Fund-financed responses under CERCLA have been implemented, and EPA, in consultation with the State, has determined that no further cleanup by responsible parties is appropriate. 40 CFR 300.425(e)(1)(ii).

EPA, with the concurrence of the State of New Jersey, through the New Jersey Department of Environmental Protection (NJDEP), believes that this criterion for deletion has been met.

Consequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available at the information repositories in the deletion docket.

In a letter dated September 18, 2002, the NJDEP concurred with EPA that all appropriate CERCLA response actions have been completed at the Pepe Field Site and protection of human health and the environment has been achieved.

Dated: February 6, 2003.

Kathleen Callahan,

Acting Regional Administrator, Region II.

[FR Doc. 03-10891 Filed 5-5-03; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA-B-7435]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the

proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-2831.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency 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.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community

eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

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

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

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Arizona	Gila County	Bloody Tanks Wash	Just upstream of Mine Road	None	*3,310
			Just upstream of New Street	None	*3,357
			Approximately 1,700 feet upstream of Southern Pacific Railroad Crossing.	*3,402	*3,398
		Coyote Wash	At confluence with Russell Gulch	None	*3,445
			Approximately 2,400 feet upstream of Russell Road.	None	*3,643
		Ice House Canyon	At Pueblo Ruins Road	None	*3,600
			Just upstream of Pinal View Road	None	*3,670
		Kellner Canyon	At confluence of Kellner Canyon	None	*3,781
			At confluence with Ice House Canyon	None	*3,781
		McMillen Wash	Approximately 250 feet upstream of Kellner Canyon Road.	None	*3,855
			Just downstream of 7th Street	None	*3,580
		Pina Creek (at Globe)	Approximately 2,400 feet downstream of U.S. 60/70.	None	*3,417
			Just upstream of Pickson Drive	None	*3,633
		Roberts Wash	Approximately 3,400 feet upstream of Six Shooter Canyon Road.	None	*3,809
			At confluence with Russell Gulch	None	*3,348
		Russell Gulch	Approximately 300 feet upstream of Roberts Road.	None	*3,429
Approximately 800 feet downstream of U.S. Route 60/70.	None		*3,304		
Watertank Wash	Confluence of Coyote Wash	None	*3,444		
	Approximately 5,000 feet upstream of the confluence of Coyote Wash.	None	*3,563		
	At confluence with Russell Gulch	Just upstream of Landfill Lane	None	*3,352	
			None	*3,432	

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 5,400 feet upstream of Landfill Lane.	None	*3,681

Depth in feet above ground

Maps are available for inspection at the Gila County Courthouse, 1400 East Ash Street, and at the Library Office First Floor Planning and Zoning Counter, Globe, Arizona 85501.

Send comments to The Honorable Cruz Salas, Chairman of the Gila County Board of Supervisors, 1400 East Ash Street, Globe, Arizona 85501.

Arizona	Miami (Town), Gila County.	Bloody Tanks Wash	Approximately 850 feet upstream of Southern Pacific Railroad Crossing.	3,402	*3,381
			Approximately 500 feet upstream of Live Oak Street.	*3,380	*3,398
			Approximately 1,700 feet upstream of Southern Pacific Railroad Crossing.	*3,444	*3,444

Depth in feet above ground

Maps are available for inspection at the Town of Miami Town Hall, 500 Sullivan Street, and at the Memorial Library 1052 Adonis Avenue, Miami, Arizona 85539.

Send comments to The Honorable Cruz Salas, Chairman of the Gila County Board of Supervisors, 1400 East Ash Street, Globe, Arizona 85501.

Arizona	Globe (City), Gila County.	Ice House Canyon	At confluence with Pinal Creek (at Globe)	None	*3,578
			Approximately 100 feet upstream of Public Ruins Road.	None	*3,602
		McMillen Wash	At confluence with Pinal Creek (at Globe)	None	*3,539
			Just upstream of U.S. Route 60/70	None	*3,625
		Pinal Creek (at Globe)	Just downstream of W. Mesquite Street ..	None	*3,768
			Approximately 200 feet upstream of Ruiz Canyon Road.	*3,539	*3,539
		Russell Gulch	Approximately 1,200 feet upstream of the confluence of Ice House Canyon.	None	*3,592
			Just downstream of Hospital Drive	None	*3,324
		Watertank Wash	At confluence of Roberts Wash	None	*3,347
			Approximately 1,000 feet upstream of the confluence of Watertank Wash.	None	*3,363
			Approximately 4,000 feet upstream of Landfill Lane.	None	*3,602
				Approximately 4,500 feet upstream of Landfill Lane.	None

Depth in feet above ground

Maps are available for inspection at the City of Globe City Hall, 150 North Pine Street, and at the Public Library, 339 South Broad Street, Globe, Arizona 85501.

Send comments to The Honorable Stanley Gibson, Mayor of the City of Globe, 150 North Pine Street, Globe, Arizona 85501.

Arizona	La Paz County	Centennial Wash	Approximately 3,100 feet downstream from the confluence of Tributary A Wenden.	*1,837	*1,837
			Approximately 3,700 feet upstream of Atchison, Topeka and Santa Fe Railroad.	*1,882	*1,884
		Tributary B at Wenden	Approximately 1,800 feet upstream of the Atchison, Topeka and Santa Fe Railroad.	*1,865	*1,865
			Approximately 7,800 feet upstream of the Atchison, Topeka and Santa Fe Railroad.	None	*1,910

Depth in feet above ground

Maps are available for inspection at the Community Development Department, 1112 Joshua Avenue # 202, Parker, Arizona 85344.

Send comments to The Honorable Clifford Edey, Chairperson, La Paz County Board of Supervisors, 1108 Joshua Avenue, Parker, Arizona 85344.

Arizona	Navajo County	Mexican Lake Outlet	Approximately 800 feet downstream of Abandoned Railroad.	None	*5,934
			Approximately 1,250 feet upstream of Abandoned Railroad.	None	*5,979
		Mexican Lake	At Mexican Lake	None	*5,979
		White Mountain Lake	At White Mountain Lake	None	*5,979

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Rocky Arroyo	Approximately 1,000 feet downstream of Silver Creek Drive.	None	*5,980
			Approximately 3,900 feet upstream of Silver Creek Drive.	None	*6,084
		Lower Silver Creek	Approximately 5,140 feet downstream of unnamed Road.	*5,642	*5,638
			Approximately 150 feet downstream of the confluence With Show Low Creek.	*5,661	*5,659
		Upper Silver Creek	Approximately 2,050 feet downstream of Silver Lake Boulevard.	None	*5,980
			Approximately 450 feet downstream of Bourdon Rande Road.	None	*6,107

Depth in feet above ground

Maps are available for inspection at the Flood Control Division, County Governmental Complex, 100 East Carter Drive, Holbrook, Arizona 86025.

Send comments to The Honorable Percy Deal, Chairman of the Board of Supervisors, P.O. Box 668, Holbrook, Arizona 86025.

Arizona	Taylor (Town)	Lower Silver Creek	Approximately 3,700 feet upstream of Willow Lane.	*5,627	*5,625
	Navajo County	Approximately 23,100 feet upstream of Willow Lane.	*5,647	*5,644

Depth in feet above ground

Maps are available for inspection at the Town Hall, 425 West Bull Duck Road, Taylor, Arizona 85939.

Send comments to The Honorable Floyd Fuentes, Mayor of the Town of Taylor, P.O. Box 158, Taylor, Arizona 85939.

California	San Luis Obispo County.	Los Berros Creek	Approximately 750 feet downstream of El Conpo Road.	*103	*103
			Approximately 4,000 feet downstream of State Route 101.	None	None
			Approximately 1,200 feet upstream of State Route 101.	None	None

Depth in feet above ground

Maps are available for inspection at the San Luis Obispo County Public Works Department, County Government Center, Room 207, 976 Osos Street, San Luis Obispo, California 93408.

Send comments to The Honorable Michael Ryan, Chairperson of the San Luis Obispo County Board of Supervisors, County Government Center, Room 370, San Luis Obispo, California 93408.

California	Santa Barbara County.	Atascadero Creek	Approximately 4,400 feet downstream of Patterson Avenue.	None	*14
			Approximately 2,850 feet upstream of Arroyo Road.	*83	*83
		Maria Ygnacia Creek	At confluence with Atascadero Creek	None	*27
			Approximately 1,400 feet upstream of San Marcos Road.	None	*158
		East Fork Maria Ygnacia Creek.	At the confluence with Maria Ygnacia Creek.	None	*154
			Approximately 1,450 feet upstream of a private bridge.	None	*250
	San Antonio Creek	At the confluence with Maria Ygnacia Creek.	None	*68	
			Approximately 500 feet upstream of Cathedral Oaks Road.	None	*165

Depth in feet above ground

Maps are available for inspection at the Flood Control District Office, 123 Anapamu Street, Santa Barbara, California 93101.

Send comments to The Honorable Naomi Schwartz, Chairperson of the Santa Barbara County Board of Supervisors, 105 East Anapamu Street, Santa Barbara, California 93101.

Colorado	Erie (Town), Boulder and Weld Counties.	Coal Creek	At confluence of Boulder Cotton No. 1 Ditch.	*5,043	+5,046
			At Tri- County Airport	*5,080	+5,083

Depth in feet above ground

Maps are available for inspection at the Town of Erie Town Hall, 645 Holbrook Street, Erie, Colorado 80516.

Send comments to The Honorable Barbara Connor, Mayor, Town of Erie, P.O. Box 750, Erie, Colorado 80516.

Flooding source(s)	Location of referenced elevation	Elevation in feet		Communities affected
		*(NGVD)	+(NAVD)	
		Effective	Modified	

Aurora County, and Incorporated Areas

Skunk Creek	Approximately 200 feet downstream of the 1st Street Bridge.	None	+1,510	Fresno County (Unincorporated Areas), City of Plankinton
	At State Street	None	+1,524	
Northwest Drainage	Approximately 150 feet downstream of Interstate 90.	None	+1,529	City of Plankinton
	At Main Street	None	+1,517	
	Approximately 500 feet upstream of Kimball Street Bridge.	None	+1,522	

Depth in feet above ground

ADDRESSES

Aurora County (Unincorporated Areas):

Maps are available for inspection at 401 North Main Street, Plankinton, South Dakota 57368.

Send comments to The Honorable Delayne Perrson, Chairperson of the Aurora County Board of Commissioners, P.O. Box 513, Plankinton, South Dakota 57368.

City of Plankinton:

Maps are available for inspection at City Hall, 125 North Main Street, Plankinton, South Dakota 57368.

Send comments to the Honorable Leroy Greenwold, Mayor of the City of Plankinton, P.O. Box 517, Plankinton, South Dakota 57368.

Hughes County, and Incorporated Areas

Missouri River	Approximately 8 miles downstream from the confluence with Hilgers Gulch.	None	+1,425	Hughes County (Unincorporated Areas), City of Pierre
	Approximately 3 miles upstream of the confluence with Whisky Gulch.	None	+1,431	

Depth in feet above ground

ADDRESSES

Hughes County (Unincorporated Areas):

Maps are available for inspection at City Hall, 222 East Dakota Avenue, Pierre, South Dakota 57501.

Send comments to the Honorable Roger Inman, Chairman of the Hughes County Board of Commissioners, 104 East Capitol Avenue, Pierre, South Dakota 57501

City of Pierre:

Maps are available for inspection at City Hall, 222 East Dakota Avenue, Pierre, South Dakota 57501.

Send comments to the Honorable Dennis Eisnach, Mayor of the City of Pierre, P.O. Box 1253, Pierre, South Dakota 57501.

Stanley County, and Incorporated Areas

Missouri River	Approximately 8 miles downstream from the confluence with the Bad River.	None	+1,425	Stanley County (Unincorporated Areas), City of Fort Pierre
	Approximately 4 miles upstream of the confluence with the Bad River.	None	+1,431	

Depth in feet above ground

ADDRESSES

Stanley County (Unincorporated Areas):

Maps are available for inspection at 8 East Second Avenue, Fort Pierre, South Dakota 57532.

Send comments to the Honorable Robert Wilcox, Chairman of the Stanley County Board of Commissioners, P.O. Box 595, Fort Pierre, South Dakota 57532.

City of Fort Pierre:

Maps are available for inspection at 8 East Second Avenue, Fort Pierre, South Dakota 57532.

Send comments to the Honorable Sam Tidball, Mayor of the City of Fort Pierre, P.O. Box 700, Fort Pierre, South Dakota 57532.

King County, and Incorporated Areas

Issaquah Creek	Approximately 1,700 feet downstream of Southeast 56th Street.	*46	*45	King County (Unincorporated Areas), City of Issaquah
	Approximately 3,200 feet upstream of Sycamore Drive.	*141	*140	
East Fork Issaquah Creek	At confluence with Issaquah Creek	*73	*75	City of Issaquah
	Just downstream of Interstate Highway 90	None	*153	
Gilman Boulevard	Approximately 640 feet downstream of 10th Avenue Northwest.	None	*56	City of Issaquah
Overflow Issaquah Creek	Approximately 1,000 feet upstream of 7th Avenue Northwest.	None	*64	

Flooding source(s)	Location of referenced elevation	Elevation in feet		Communities affected
		*(NGVD)	+(NAVD)	
		Effective	Modified	

Depth in feet above ground

ADDRESSES

King County (Unincorporated Areas):

Maps are available for inspection at the Water and Land Department Flood Hazard Division, 201 South Jackson Street, Suite 600, Seattle, Washington 98104-3855.

Send comments to the Honorable Ron Sims, King County Executive, 516 Third Avenue, Suite 400, Seattle, Washington 98104.

City of Issaquah:

Maps are available for inspection at the City Hall Department of Public Works, 1775 12th Avenue N.W., Issaquah, Washington 98027.

Send comments to the Honorable Ava Frisinger, Mayor of the City of Issaquah, 130 East Sunset Way, Issaquah, Washington 98027

Natrona County, and Incorporated Areas

Casper Creek	Approximately 300 feet upstream from the confluence with North Platte River.	*5,116	*5,116	Natrona County (Unincorporated Areas), Town of Mills
	Approximately 4 miles upstream of State Highway 26 (West Chase Road).	*5,198	*5,199	
Eastdale Creek	Approximately 1,250 feet downstream of East Yellowstone Highway.	None	*5,103	Natrona County (Unincorporated Areas), City of Casper
	Approximately 100 feet downstream of Wyoming Boulevard.	None	*5,482	
East Branch Eastdale Creek	At the confluence with Eastdale Creek	None	*5,292	Natrona County (Unincorporated Areas)
Elkhorn Creek	Just downstream of Wyoming Boulevard	None	*5,480	Natrona County (Unincorporated Areas), Town of Evansville, City of Casper
	At the confluence with the North Platte River	None	*5,077	
Garden Creek	Approximately 4,500 feet upstream of Interstate 25	None	*5,184	Natrona County (Unincorporated Areas)
	Approximately 6,500 feet upstream of Spring Creek Branch Road.	None	*5,972	
	Approximately 100 feet upstream of Garden Creek Road.	*5,619	*5,619	
Garden Creek, West Branch	Approximately 1,700 feet upstream of Garden Creek Road.	None	*6,313	Natrona County (Unincorporated Areas)
	At the confluence with Garden Creek	None	*5,684	
North Platte River	Approximately 2,300 feet upstream of Garden Creek Road.	None	*6,634	Natrona County (Unincorporated Areas)
	Approximately 800 feet upstream of U.S. Highway 20 and 26.	None	*5,116	
	Approximately 2,000 feet upstream of Wyoming Boulevard.	None	*5,120	Town of Mills

Depth in feet above ground

ADDRESSES

Unincorporated Areas of Natrona County:

Maps are available for inspection at the Natrona County Annex, 120 West First Street, Suite 200, Casper, Wyoming 82601.

Send comments to the Honorable John Campbell, Chairman of the Natrona County Board of Supervisors, 200 North Center, Casper, Wyoming, 82601.

Town of Evansville:

Maps are available for inspection at the Evansville Town Hall, 235 Curtis Street, Evansville, Wyoming 82636.

Send comments to the Honorable Barney Humphrey, Mayor of the Town of Evansville, P.O. Box 158, Evansville, Wyoming 82636.

City of Casper:

Maps are available for inspection at City Hall, 200 North David Street, Casper, Wyoming 82601.

Send comments to the Honorable Barbara A. Peryam, Mayor of the City of Casper, 200 North David Street, Room 201, Casper, Wyoming 82601.

Town of Mills:

Maps are available for inspection at the Town of Mills Town Hall, 704 4th Street, Mills, Wyoming 82601.

Send comments to the Honorable Robert Goff, Mayor of the Town of Mills, P.O. Box 789, Mills, Wyoming 82644.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: April 30, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03-11104 Filed 5-5-03; 8:45 am]

BILLING CODE 6718-04-P

FEDERAL MARITIME COMMISSION

46 CFR Part 540

[Docket No. 02-15]

Passenger Vessel Financial Responsibility

AGENCY: Federal Maritime Commission.

ACTION: Notice of Public Hearing Date.

SUMMARY: The Commission has determined to set June 11, 2003, as the date for the public hearing in this proceeding.

DATES: Requests to participate in Public Hearing due May 28, 2003.

ADDRESSES: Address all submissions to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573-0001, (202) 523-5725, E-mail: secretary@fmc.gov.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573-0001, (202) 523-5725, E-mail: secretary@fmc.gov.

SUPPLEMENTARY INFORMATION: On April 3, 2003, the Commission announced that it had determined to hold a public hearing at which interested parties could make presentations and field questions from the Commissioners concerning the issues raised in this proceeding. The Commission has now determined to convene this public hearing on June 11, 2003. The hearing will be held in the Commission's Main Hearing Room, Room 100, 800 North Capitol Street, NW., Washington, DC, at a time which will be announced in a subsequent notice. Parties wishing to participate in this hearing must notify the Office of the Secretary by close-of-business May 28, 2003, of the name, street address, e-mail address, telephone number, and the name of your company or employer, if any. Parties wishing to participate should also provide a short, brief statement describing their position on the proposed rule.

Submissions should be addressed to the Office of the Secretary: by e-mail to secretary@fmc.gov; by facsimile to 202-523-0014 or by U.S. mail or courier to Federal Maritime Commission, 800

North Capitol Street, NW., Washington, DC 20573. (To avoid delay, electronic or facsimile submissions are encouraged.)

The Commission will announce the time of the hearing and the order of presentation and time allotment during the week of June 2, 2003.

By the Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03-11089 Filed 5-5-03; 8:45 am]

BILLING CODE 6730-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1137

[STB Ex Parte No. 637 (Sub-No. 1)]

Removal of Divisions of Revenue Regulations

AGENCY: Surface Transportation Board, Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (Board) is proposing to remove its regulations concerning divisions of revenue proceedings because of changes in the statute and the infrequency of divisions of revenue complaints.

DATES: Comments are due June 5, 2003.

FOR FURTHER INFORMATION CONTACT: John Sado, (202) 565-1661. [Federal Information Relay Service for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: In *Removal and Revision of Regulations*, STB Ex Parte No. 637, served and published in the *Federal Register* on August 28, 2002 (67 FR 55166), the Board, *inter alia*, removed regulations at 49 CFR 1137.2 concerning expeditious procedures for the publication of separate rates for distinct service. In that proceeding, the Board indicated that we were not revising our rules at 49 CFR 1137.1 concerning divisions of revenue, but would "examine this regulation in a separate proceeding."

The regulations at 49 CFR 1137.1 concerning divisions of revenue between carriers participating in a joint rate were issued in response to the enactment of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). The 4R Act amended former section 15(6) of the Interstate Commerce Act by adding provisions that would expedite the handling of divisions of revenue cases. In response, the Interstate Commerce Commission (ICC) issued the original divisions of revenue rules in *Expeditious Handling of*

Divisions of Revenue Cases, 353 I.C.C. 349 (1976).¹ Section 15(6) was recodified at former 49 U.S.C. 10705, which was later modified by the Staggers Rail Act of 1980. Former section 10705 in general required that evidentiary proceedings in cases brought by complaint be completed in 9 months and a final decision be issued within 180 days after the close of the record.²

Under the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803 (1995), section 10705 has been modified. Although the Board retains jurisdiction over divisions of joint rates, the provision for the filing of a notice of intent and the deadlines for gathering evidence and issuing a final decision have been removed.

We are proposing to remove the rules at section 1137.1. Our records indicate that we have not had a divisions of revenue complaint in over 20 years,³ and, accordingly, retaining the regulations appears to be administratively inefficient. The rules, moreover, contain the notice of intent and deadline provisions that no longer have a statutory basis. The Board has general rules for filing and handling complaints at 49 CFR part 1111, which appear to be adequate for any future divisions complaints.

Because these rules have been rarely used, retention of the evidentiary guidelines in 1137.1(g) appears to be unnecessary, and we propose to remove them. However, parties may believe that these guidelines with modifications (such as removing the obsolete reference to Rail Form A) or alternative guidelines are helpful. If so, they should explain why codified guidelines are necessary, when parties, on a case-by-case basis, are free to use any evidence they consider relevant.⁴

We certify that the proposed rule will not have a significant impact on a substantial number of small entities, because the rules are partly obsolete and have been infrequently used. We seek comments on all matters raised by this notice.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ The regulations were originally issued at 49 CFR 1109.5. They were later redesignated at 49 CFR 1137.1 in *Revision of the Rules of Practice*, Ex Parte No. 55 (Sub-No. 55), 47 FR 49534 (Nov. 1, 1982).

² The ICC subsequently modified the regulations in section 1137.1 in *Revised Procedures for Divisions of Revenue Cases*, 367 I.C.C. 353 (1983).

³ *Increases in Freight Rates and Charges—1973*, 365 I.C.C. 193 (1981).

⁴ Parties could indeed, if they wish, use former guidelines following their removal.