

(3) A decision that will be final for the Department unless a notice of appeal is filed in accordance with § 4.411.

(b) The administrative law judge will promptly send to the Board the record and:

- (1) The proposed findings;
- (2) The recommended decision; or
- (3) The final decision if a timely notice of appeal is filed.

(c) The parties will have 30 days from service of proposed findings or a recommended decision to file exceptions with the Board.

14. Revise § 4.478(a) to read as follows:

**§ 4.478 Appeals to the Board of Land Appeals; judicial review.**

(a) Any person who has a right of appeal under § 4.410 or other applicable regulation may appeal to the Board from an order of an administrative law judge granting or denying a petition for a stay in accordance with § 4.411.

\* \* \* \* \*

**Subpart L—Special Rules Applicable to Surface Mining Hearings and Appeals**

15. The authority citation for Part 4, Subpart L, continues to read as follows:

**Authority:** 30 U.S.C. 1256, 1260, 1261, 1264, 1268, 1271, 1272, 1275, 1293; 5 U.S.C. 301

16. Add § 4.1117 to subpart L to read as follows:

**§ 4.1117 Reconsideration.**

A party may file a petition for reconsideration of any decision of the Board under this subpart within 60 days after the date of the decision. The provisions of § 4.403 apply to a petition filed under this paragraph.

17. Revise § 4.1270(f) to read as follows:

**§ 4.1270 Petition for discretionary review of a proposed civil penalty.**

\* \* \* \* \*

(f) If the petition is granted, the rules in §§ 4.1273 through 4.1275 are applicable, and the Board must use the point system and conversion table contained in 30 CFR part 723 or 845 in recalculating assessments. However, the Board has the same authority to waive the civil penalty formula as that granted to administrative law judges in § 4.1157(b)(1). If the petition is denied, the decision of the administrative law judge is final for the Department, subject to § 4.5.

**§ 4.1276 [Removed]**

18. Remove § 4.1276.

19. Revise § 4.1286 to read as follows:

**§ 4.1286 Motion for a hearing on an appeal involving issues of fact.**

(a) Any party may file a motion that the Board refer a case to an administrative law judge for a hearing. The motion must state:

(1) What specific material issues of fact require a hearing;

(2) What evidence concerning these issues must be presented by oral testimony, or be subject to cross-examination;

(3) What witnesses need to be examined; and

(4) What documentary evidence requires explanation, if any.

(b) In response to a motion under paragraph (a) of this section or on its own initiative, the Board may order a hearing if:

(1) There are any material issues of fact which, if proven, would alter the disposition of the appeal; or

(2) There are significant factual or legal issues remaining to be decided and the record without a hearing would be insufficient for resolving them.

(c) If the Board orders a hearing, it must:

(1) Specify the issues of fact upon which the hearing is to be held; and

(2) Request the administrative law judge to issue:

(i) Proposed findings of fact on the issues presented at the hearing;

(ii) A recommended decision that includes findings of fact and conclusions of law; or

(iii) A decision that will be final for the Department unless a notice of appeal is filed in accordance with § 4.411 within 30 days of the date of receipt of the decision.

(d) If the Board orders a hearing, it may:

(1) Suspend the effectiveness of the decision under review pending a final Departmental decision on the appeal if it finds good cause to do so;

(2) Authorize the administrative law judge to specify additional issues; or

(3) Authorize the parties to agree to additional issues that are material, with the approval of the administrative law judge.

(e) The hearing will be conducted under §§ 4.1100, 4.1102 through 4.1115, 4.1121 through 4.1127, and 4.1130 through 4.1141.

[FR Doc. E7-3774 Filed 3-7-07; 8:45 am]

**BILLING CODE 4310-79-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket No. FEMA-B-7710]

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The 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 table below.

**FOR FURTHER INFORMATION CONTACT:** William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151.

**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.

**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.

**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 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 table 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	
<b>Del Norte County, California and Incorporated Areas</b>				
Middle Fork Smith River .....	At the Confluence with Smith River .....	None	+360	Del Norte County (Unincorporated Areas).
	Approximately 1.8 miles Upstream of Horace Gasquet Memorial Bridge.	None	+432	
Smith River (Gasquet Reach)—North Fork Smith River.	Approximately 300 feet Upstream of Mary Adams Memorial Road/US Highway 99.	None	+304	Del Norte County (Unincorporated Areas).
	Approximately 4000 feet Upstream of Confluence With Middle Fork Smith River.	None	+379	
Smith River (Hiouchi Reach)	Approximately 2000 feet Upstream of U.S. Highway 101.	None	+47	Del Norte County (Unincorporated Areas).
	Approximately 100 feet Downstream of South Fork Road.	None	+152	

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

**ADDRESSES**

**Del Norte County (Unincorporated Areas)**

Maps are available for inspection at 981 H Street, Suite 110, Crescent City, CA 95531.  
Send comments to The Honorable David Finigan, Chairperson, 981 H Street, Suite 200, Crescent City, CA 95531.

**Hopkins County, Kentucky and Incorporated Areas**

Clear Creek .....	Approximately 1450 feet downstream of KY 2171 .....	None	+399	City of Earlington, Hopkins County (Unincorporated Areas).
	Approximately 140 feet upstream of West Thompson Avenue.	None	+418	
Clear Creek Tributary .....	Confluence with Clear Creek .....	None	+405	City of Earlington.
	Approximately 50 feet downstream of Loch Mary Reservoir.	None	+422	
Elk Creek .....	Confluence with Pond River .....	None	+387	Hopkins County (Unincorporated Areas).
	Approximately 8600 feet downstream of Brown Road	None	+387	
	Approximately 750 feet downstream of Island Ford Road.	None	+406	
	Approximately 320 feet downstream of Fowler Road ..	None	+412	
Tributary 10.5 .....	Approximately 100 feet upstream of confluence with Elk Creek Tributary 5.1.	None	+403	City of Madisonville, Hopkins County (Unincorporated Areas).
	Approximately 450 feet upstream of Island Park Drive	None	+425	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Tributary 4 .....	Confluence with Elk Creek .....	None	+412	City of Madisonville, Hopkins County (Unincorporated Areas).
	Approximately 120 feet downstream of Stagecoach Road.	None	+439	
Tributary 5.1 .....	Approximately 1660 feet downstream of McGrew Lane.	None	+400	City of Madisonville, Hopkins County (Unincorporated Areas).
	Approximately 170 feet upstream of Edward T. Breathitt Parkway.	None	+426	
Otter Creek .....	Confluence with Pond River .....	None	+387	Hopkins County (Unincorporated Areas).
Pleasant Run .....	Approximately 5300 feet upstream of Vandetta Road	*386	+387	City of Nortonville.
	Approximately 580 feet downstream of North Hopkinsville Street.	None	+406	
Pond River .....	Approximately 1550 feet upstream of Seaboard System Railroad.	None	+411	Hopkins County (Unincorporated Areas).
	Confluence with Otter Creek .....	None	+387	
	Approximately 14,570 feet upstream of Anton Road ...	None	+387	

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

**ADDRESSES**

**City of Earlington**

Maps are available for inspection at 56 North Main Street, Madisonville, KY 42431.  
 Send comments to The Honorable Michael Seiber, Mayor, City of Earlington, 103 West Main Street, Earlington, KY 42410.

**City of Madisonville**

Maps are available for inspection at 56 North Main Street, Madisonville, KY 42431.  
 Send comments to The Honorable William Cox, Jr., Mayor, City of Madisonville, 37 East Center Street, Madisonville, KY 42431.

**City of Nortonville**

Maps are available for inspection at 56 North Main Street, Madisonville, KY 42431.  
 Send comments to The Honorable James Noel, Mayor, City of Nortonville, 199 South Main Street, Nortonville, KY 42442.

**Hopkins County (Unincorporated Areas)**

Maps are available for inspection at 56 North Main Street, Madisonville, KY 42431.  
 Send comments to The Honorable Donald Carroll, Judge Executive, Hopkins County, Hopkins County Government Building, P.O. Box 523, Madisonville, KY 42431.

**Webb County, Texas and Incorporated Areas**

Chacon Creek .....	Confluence with Rio Grande .....	*387	+394	City of Laredo, Webb County (Unincorporated Areas).
	Approximately 2000 feet downstream from confluence with Casa Blanca Lake.	None	+453	
Tributary 1 .....	Confluence with Chacon Creek .....	*387	+394	City of Laredo.
	Approximately 250 feet upstream from intersection with Chestnut.	*429	+422	
Tributary 2 .....	Confluence with Chacon Creek .....	*396	+394	City of Laredo, Webb County (Unincorporated Areas).
Tributary 3 .....	Approximately 1500 feet downstream from Loop 20 ...	None	+398	City of Laredo, Webb County (Unincorporated Areas).
	Confluence with Chacon Creek .....	None	+436	
Deer Creek .....	Approximately 2500 feet upstream from the intersection with Highway 59.	None	+444	City of Laredo.
	Confluence with Rio Grande .....	None	+411	
Dellwood Tributary (Previously Las Manadas Creek Tributary 1).	Intersection with Logistic Road .....	None	+476	City of Laredo, Webb County (Unincorporated Areas).
	Confluence with Las Manadas Creek .....	*402	+410	
Las Manadas Creek .....	Approximately 2000 feet upstream from intersection with FM 3464.	None	+486	City of Laredo, Webb County (Unincorporated Areas).
	Confluence with Rio Grande .....	*402	+408	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Tributary 1 .....	Approximately 1750 feet upstream from intersection with Loop 20.	None	+552	City of Laredo, Webb County (Unincorporated Areas).
	Confluence with Las Manadas Creek .....	*403	+412	
Tributary 1A .....	Approximately 200 feet upstream from Springfield Drive.	None	+468	City of Laredo.
	Confluence with Las Manadas Creek Tributary 1 .....	None	+430	
	Approximately 1200 feet upstream from Dover/Stratford.	None	+464	
Tributary 2 (Formerly Las Manadas Creek Tributary 3).	Confluence with Las Manadas Creek .....	*411	+418	City of Laredo, Webb County (Unincorporated Areas).
	Approximately 5050 feet upstream from intersection with FM 3464.	None	+489	
Tributary 2A .....	Confluence with Las Manadas Creek Tributary 2 .....	None	+447	City of Laredo.
	Approximately 3225 feet upstream from confluence with Las Manadas Creek Tributary 2.	None	+459	
Rio Grande .....	Approximately 1750 feet upstream from intersection with Riverhill Road.	None	+391	City of Laredo, Webb County (Unincorporated Areas).
Tex-Mex Railroad Tributary ..	Confluence with Deer Creek .....	None	+411	City of Laredo, Webb County (Unincorporated Areas).
	Confluence with Chacon Creek .....	*402	+400	
Zacate Creek .....	Approximately 1250 feet upstream from intersection with Tex-Mex Railroad.	None	+423	City of Laredo.
	Approximately 250 feet downstream from the intersection with Mexican Railroad.	*395	+396	
	Confluence with Rio Grande .....	*388	+399	

\* National Geodetic Vertical Datum.

# Depth in feet above ground.

+ North American Vertical Datum.

**ADDRESSES****City of Laredo**

Maps are available for inspection at 1120 San Bernardo, Laredo, TX 78042.

Send comments to The Honorable Raul G. Salinas, Mayor, City of Laredo, 1110 Houston Street, Laredo, TX 78040.

**Webb County (Unincorporated Areas)**

Maps are available for inspection at 1110 Washington Street, Suite 302, Laredo, TX 78040.

Send comments to The Honorable Danny Valdez, County Judge, 1000 Houston, 3rd Floor, Webb County Courthouse, Laredo, TX 78040.

**Clark County, Washington and Incorporated Areas**

Burnt Bridge Creek .....	Just upstream of Interstate 205 .....	*189	+192	Clark County (Unincorporated Areas). City of Vancouver.
	Approximately 1200 feet upstream of NE 152nd Avenue.	*196	+200	
China Ditch .....	Just upstream of NE Ward Road .....	None	+252	Clark County (Unincorporated Areas).
Curtin Creek (Glenwood Creek).	Approximately 2200 feet upstream of NE 144th Street	None	+275	Clark County (Unincorporated Areas).
	At confluence with Salmon Creek .....	None	+172	
Dead Lake .....	Just upstream of Anderson Road .....	None	+260	Clark County (Unincorporated Areas).
	Near NE Everett Street/WA State Hwy 500 .....	None	+191	
Fifth Plain Creek .....	Near NE Lake Road .....	None	+191	Clark County (Unincorporated Areas).
	Upstream side of NE 4th Plain Boulevard .....	None	+215	
Gee Creek .....	About 0.7 mile above NE Davis Road .....	None	+342	City of Vancouver. Clark County (Unincorporated Areas).
	About 0.14 mile upstream of Main Street, at N Main Avenue in Ridgefield.	*25	+27	
Lacamas Creek .....	Approximately 0.5 mile upstream of Interstate 5 .....	None	+315	Town of Ridgefield. Clark County (Unincorporated Areas).
	At confluence with Washougal River .....	None	+35	
Lacamas Lake .....	Just downstream of NE Goodwin Road .....	None	+193	City of Camas. Clark County (Unincorporated Areas).
	At SE Everett Road/WA State Hwy 500 .....	None	+191	
	At NE 232nd Avenue/NE Leadbetter Road .....	None	+191	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Mill Creek .....	At confluence with Salmon Creek .....	None	+137	Clark County (Unincorporated Areas). City of Battle Ground. Clark County (Unincorporated Areas). City of Battle Ground.
Weaver Creek .....	Just downstream of NW 20th Avenue .....	None	+279	
	At confluence with Salmon Creek .....	None	+210	
	Approximately 400 feet west of NE 167th Avenue .....	None	+345	

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+ North American Vertical Datum.

**ADDRESSES**

**City of Battle Ground**

Maps are available for inspection at 109 Southwest First Street, Suite 127, Battle Ground, WA 98604–2818.  
Send comments to The Honorable John Idsinga, Mayor, City of Battle Ground, 109 Southwest First Street, Suite 220, Battle Ground, WA 98604.

**City of Camas**

Maps are available for inspection at 616 Northeast Fourth Avenue, Camas, WA 98607.  
Send comments to The Honorable Paul Dennis, Mayor, City of Camas, 616 Northeast Fourth Avenue, Camas, WA 98607.

**City of Vancouver**

Maps are available for inspection at c/o Chad Eiken, 313 Main Street, Vancouver, WA 98665.  
Send comments to The Honorable Royce Pollard, Mayor, City of Vancouver, 210 East 13th Street, Vancouver, WA 98668.

**Town of Ridgefield**

Maps are available for inspection at 127 North Main Avenue, Ridgefield, WA 98642.  
Send comments to The Honorable Gladys Doriot, Mayor, City of Ridgefield, P.O. Box 608, Ridgefield, WA 98642.

**Clark County (Unincorporated Areas)**

Maps are available for inspection at 1300 Franklin Street, Third Floor, Vancouver, WA 98666–8810.  
Send comments to The Honorable Bill Barron, County Administrator, Clark County, P.O. Box 5000, Vancouver, WA 98666–5000.

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

Dated: March 1, 2007.

**David I. Maurstad,**

*Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. E7–4153 Filed 3–7–07; 8:45 am]

**BILLING CODE 9110–12–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket No. FEMA–B–7709]

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The 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 table below.

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**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.

**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.