

Dated: January 10, 2003.  
(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

**Anthony S. Lowe,**  
*Administrator, Federal Insurance and Mitigation Administration.*  
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**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**44 CFR Part 67**

[Docket No. FEMA-B-7433]

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency (FEMA).

**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 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:** Mike M. Grimm, Acting, Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646-3461, or (e-mail) [mike.grimm@fema.gov](mailto:mike.grimm@fema.gov)

**SUPPLEMENTARY INFORMATION:** 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. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Administrator, Federal Insurance and

Mitigation Administration 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
California .....	Lake Elsinore (City), Riverside County.	Lake Elsinore .....	At Lake Elsinore .....	*1,267	*1,263
		San Jacinto River .....	Approximately 1,400 feet downstream of Lakeshore Drive.	*1,275	*1,274
			Just above U.S. Route 15 .....	*1,275	*1,274
			Approximately 1.6 miles upstream of Summerhill Drive.	*1,309	*1,309
		Tenescal Wash .....	Just downstream of Riverside Drive .....	*1,258	*1,258
At Tenth Street .....	*1,258		*1,259		
		Just downstream of Chaney Street .....	*1,265	*1,262	

Depth in feet above ground

Maps are available for inspection at City Hall, City Engineers Office, c/o Mr. Richard A. Hess, 130 South Main Street, Lake Elsinore, California 92530.

Send comments to The Honorable Genie Kelly, Mayor, City of Lake Elsinore, 130 South Main Street, Lake Elsinore, California 92530.

California .....	Riverside County ...	Lakeland Village Channel	Approximately 460 feet downstream of Grand Avenue. Just upstream of Ralley Avenue .....	*1,267	*1,265
				*1,293	*1,293

State	City/town/county	Source of flooding	Location	Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Lake Elsinore .....	At Nelson Avenue .....	*1,351	*1,351
			At Lake Elsinore .....	*1,267	*1,263

Depth in feet above ground

Maps are available for inspection at Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, California 92501.

Send comments to The Honorable Jim Venable, Chairman, Riverside County Board of Supervisors, 4080 Lemon Street, 14th Floor, Riverside, California 92501.

Oregon .....	Portland (City), Multnomah County.	Crystal Springs Creek .....	Just downstream of SE Sherret Street at confluence with Johnson Creek.	*51	*48
			Approximately 1,150 feet upstream of 28th Avenue.	None	*77
		Johnson Creek .....	Just upstream of SE Ochoco Street .....	*45	*44
			Just downstream of Circle Avenue .....	*254	*252

Depth in feet above ground

Maps are available for inspection at the Planning and Development Review, 1900 SW Fourth Avenue, Room 50, Portland, Oregon 97204.

Send comments to The Honorable Vera Katz, Mayor, City of Portland, 1221 SW Fourth Avenue, Room 340, Portland, Oregon 97204.

Wyoming .....	Lincoln County .....	Salt River .....	Approximately 2,500 feet downstream of McCox Road.	None	*5,623
			Just upstream of Secondary Highway 239	None	*5,775
			Approximately 9,000 feet upstream of U.S. Highway 89.	None	*5,987

Depth in feet above ground

Maps are available for inspection at the Emergency Management Office, 520 Topaz Street, Kemmerer, Wyoming 83101.

Send comments to The Honorable Kathleen Davison, Chairperson, Lincoln County, Board of Commissioners, County Courthouse, 925 Sage Avenue, Kemmerer, Wyoming 83101.

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

Dated: January 7, 2003.

**Anthony S. Lowe,**

*Administrator, Federal Insurance and Mitigation Administration.*

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

[Docket No. NHTSA 02-13954; Notice 1]

RIN 2127-A136

**Federal Motor Vehicle Safety Standards; Occupant Crash Protection, Seat Belt Assemblies**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Termination of rulemaking; denial of petition for rulemaking.

**SUMMARY:** In April 2000, NHTSA received a petition for rulemaking requesting that the agency amend its safety standards to require that vehicle manufacturers either offer consumers

the option of longer seat belts on new vehicles or make seat belt extenders available for purchase. The purpose of the petition was to accommodate individuals who, because of their size, cannot use the seat belts in the vehicle of their choice. The agency granted the petition on February 28, 2001 and began to gather data on the availability of longer belts and to estimate the underserved population. In August 2002, the agency received a second petition for rulemaking requesting the same amendments.

Based on its analysis of available data, NHTSA is terminating rulemaking on the April 2000 petition, and is denying the August 2002 petition for rulemaking.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may contact Sanjay Patel, Office of Crashworthiness Standards. Telephone: (202) 366-4583, Facsimile: (202) 366-4329.

For legal issues, you may contact Otto Matheke, Office of the Chief Counsel. Telephone: (202) 366-5263, Facsimile: (202) 366-3820.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On April 18, 2000, Ms. Elizabeth Fisher petitioned the agency to amend Federal Motor Vehicle Standard

(FMVSS) No. 209, *Seat belt assemblies*, to require vehicle manufacturers to provide seat belts that fit all passengers (Docket No. NHTSA-2000-7580-01). Ms. Fisher's petition stated that the existing provisions of FMVSS No. 209 only require belts to fit adult males weighing up to 97.5 kg (215 lbs.) and requested that NHTSA initiate a rulemaking action to require vehicle manufacturers to provide a means for any passenger who fits inside the vehicle to be able to fasten the seat belt. The petition suggested that this could be accomplished either by requiring manufacturers to make longer seat belts available as a vehicle option or by requiring that all vehicle manufacturers make seat belt extenders available to those who wish to purchase them.

FMVSS No. 208, *Occupant crash protection*, and FMVSS No. 209 require that seat belt assemblies shall be capable of adjustment to fit occupants up to the size of the 95th percentile male, as defined by these standards. These standards define the mass of the 95th percentile male as 97.5 kg (215 lbs.). However, Ms. Fisher, using Body Mass Index (BMI) data from the Third National Health and Nutrition Examination Survey (NHANES III) of the National Center for Health Statistics, argued that more than 22 percent of the U.S. adult population is larger than a