

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

Dated: December 7, 2004.

**David I. Maurstad,**

*Acting Director, Mitigation Division,  
Emergency Preparedness and Response  
Directorate.*

[FR Doc. 04-27249 Filed 12-10-04; 8:45 am]

**BILLING CODE 9110-12-P**

**DEPARTMENT OF HOMELAND  
SECURITY**

**Federal Emergency Management  
Agency**

**44 CFR Part 67**

**Final Flood Elevation Determinations**

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

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual-chance) Flood Elevations and modified Base Flood Elevations (BFEs) are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each 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).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

**ADDRESSES:** The final base flood elevations 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:** Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2903.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes the final determinations listed below for the BFEs and modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and 44 CFR Part 67.

The Federal Emergency Management Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

**National Environmental Policy Act**

This 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 rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

**Regulatory Classification**

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

**Executive Order 12778, Civil Justice Reform**

This 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 record keeping requirements.

■ Accordingly, 44 CFR Part 67 is amended to read 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.

**§ 67.11 [Amended]**

■ 2. The tables published under the authority of § 67.11 are amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) modified. ◆Elevation in feet (NAVD) modified
Arkansas .....	Arkadelphia (City) Clark County (FEMA Docket No. P7649).	Mill Creek .....	Approximately 1,820 feet downstream of North Eighth Street.	*193
	(FEMA Docket No. P7649) .....	Maddox Branch .....	Approximately 2,800 feet upstream of 26th Street. Approximately 25 feet downstream of Union Pacific Railroad.	*245 *186

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) modified. ♦Elevation in feet (NAVD) modified
			Approximately 425 feet upstream of South 12th Street.	*207

Maps are available for inspection at the Town Hall, 700 Clay Street, 121, Arkadelphia, Arkansas.

Louisiana .....	Jonesville (Town) Catahoula Parish (FEMA Docket No. P7649).	Black River .....	Approximately 4,100 feet downstream of U.S. Highway 84.	*63
		Little River .....	At the confluence of Little River .....	*63
			At the confluence with Black River	*63
			Approximately 100 feet upstream of the divergence of Airport Canal.	*63
Ohio .....	Chagrin Falls (Village) Cuyahoga County (FEMA Docket No. P7653).	Chagrin River .....	At the downstream corporate limit, approximately 4,735 feet downstream of Miles Road.	*838
			Just downstream of the corporate limit, approximately 5,100 feet upstream of the dam.	*969

Maps are available for inspection at the Village Hall, 21 W. Washington Street, Chagrin Falls, Ohio.

Ohio .....	Lake County (Unincorporated Areas) (FEMA Docket No. P7655).	Red Creek .....	Just upstream of CSX Railroad .....	*677
			Approximately 700 feet upstream of Farm Road.	*696
		Red Mill Creek .....	A reach approximately 1,200 feet south of Norfolk Southern Railroad.	*704
			Area east of the Main Street and 700 feet south of Norfolk Southern Railroad.	*#2

Maps are available for inspection at the Lake County Engineers Office, 550 Blackbrook Road, Painesville, Ohio.

Ohio .....	Perry Lake (Village) Lake County (FEMA Docket No. P7655). Red Mill Creek .....	Red Creek .....	.....	*699
		Area east of Main Street and approximately 1,300 feet south of Norfolk Southern Railroad.	*710.	

Maps are available for inspection at the Village of Perry Municipal Center, 3758 Center Road, Perry, Ohio.

Oklahoma .....	Tuttle (Town) Grady County (FEMA Docket No. P7647).	Coal Creek—Lower Reach .....	Approximately 200 feet upstream of the confluence with the Canadian River.	*1,197
			Approximately 0.5 mile upstream of North Sarah Road.	*1,235
		Coal Creek Tributary—Lower Reach.	At the confluence with Coal Creek—Lower Reach.	*1,221
			Approximately 0.6 mile upstream of the confluence with Coal Creek—Lower Reach.	*1,232
	Tuttle (Town) Lake County (Cont'd) (FEMA Docket No. P7647).	Worley Creek—Lower Reach .....	Approximately 1,530 feet downstream of East Silver City Ridge Road.	*1,204
			Approximately 140 feet upstream of State Highway 37.	*1,243

Maps are available for inspection at the Town Hall, 301 West Main Street, Tuttle, Oklahoma.

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 219

[Docket No. 2001-11213, Notice No. 4]

RIN 2130-AA81

#### Alcohol and Drug Testing: Determination of Minimum Random Testing Rates for 2005

**AGENCY:** Federal Railroad  
Administration (FRA), DOT.

**ACTION:** Notice of determination.

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**SUMMARY:** Using data from Management Information System annual reports, FRA has determined that the 2003 rail industry random testing positive rate was 0.93 percent for drugs and 0.18 percent for alcohol. Since the industry-wide random drug testing positive rate continues to be below 1.0 percent, the Federal Railroad Administrator (Administrator) has determined that the minimum annual random drug testing rate for the period January 1, 2005 through December 31, 2005 will remain at 25 percent of covered railroad employees. Since the random alcohol testing violation rate has remained below 0.5 percent for the last two years, the Administrator has determined that

the minimum random alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2005 through December 31, 2005.

**DATES:** This notice is effective upon publication.

**FOR FURTHER INFORMATION CONTACT:**

Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Enforcement, Mail Stop 25, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20005, (202) 493-6313; or Kathy Schnakenberg, FRA Alcohol/Drug Program Specialist, (816) 561-2714.

**SUPPLEMENTARY INFORMATION:**

#### Administrator's Determination of 2005 Random Drug and Alcohol Testing Rates

In a final rule published on December 2, 1994 (59 FR 62218), FRA announced that it will set future minimum random drug and alcohol testing rates according to the rail industry's overall positive rate, which is determined using annual railroad drug and alcohol program data taken from FRA's Management Information System. Based on this data, the Administrator publishes a **Federal Register** notice each year, announcing the minimum random drug and alcohol testing rates for the following year (see 49 CFR 219.602, 608).

Under this performance-based system, FRA may lower the minimum random drug testing rate to 25 percent whenever the industry-wide random drug positive rate is less than 1.0 percent for two calendar years while testing at 50 percent. (For both drugs and alcohol, FRA reserves the right to consider other factors, such as the number of positives in its post-accident testing program,

before deciding whether to lower annual minimum random testing rates). FRA will return the rate to 50 percent if the industry-wide random drug positive rate is 1.0 percent or higher in any subsequent calendar year.

FRA implemented a parallel performance-based system for random alcohol testing. Under this system, if the industry-wide violation rate is less than 1.0 percent but greater than 0.5 percent, the rate will be 25 percent. FRA will raise the rate to 50 percent if the industry-wide violation rate is 1.0 percent or higher in any subsequent calendar year. FRA may lower the minimum random alcohol testing rate to 10 percent whenever the industry-wide violation rate is less than 0.5 percent for two calendar years while testing at a higher rate.

In this notice, FRA announces that the minimum random drug testing rate will remain at 25 percent of covered railroad employees for the period January 1, 2005 through December 31, 2005, since the industry random drug testing positive rate for 2003 was 0.93 percent. Since the industry-wide violation rate for alcohol has remained below 0.5 percent for the last two years, FRA is maintaining the minimum random alcohol testing rate at 10 percent of covered railroad employees for the period January 1, 2005 through December 31, 2005. Railroads remain free, as always, to conduct random testing at higher rates.

Issued in Washington, DC on December 2, 2004.

**Betty Monro,**

*Acting Administrator.*

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