

Pennsylvania Avenue, NW., Room 500, Washington, DC 20408.

Subpart E—Reclassification

§ 1260.70 Can previously released Executive Branch information be reclassified or have its classification restored?

(a) Records that were properly declassified in accordance with E.O. 12958 as amended (or predecessor orders) and that have been released may be temporarily closed and considered for reclassification at the request of an agency. Final action must be taken under the personal authority of the agency head or deputy agency head, who determines in writing within 20 workdays that the reclassification of the information is necessary in the interest of the national security. In addition, the information must be reasonably recoverable.

(b) Records that were not properly declassified in accordance with Executive Order 12958 as amended (or predecessor orders) remain classified. Upon notification, NARA will take administrative action to restore markings and controls, as appropriate. In the event that records have been released, they may be temporarily closed and their classification reviewed at the request of an agency. The agency must notify NARA of the results of the review within 30 days.

(c) Agencies must submit all requests in writing. If the urgency of the request precludes a written request, an authorized agency official may make a preliminary request by telephone and follow up with a written request within 5 working days. Requests concerning Executive Branch records must be addressed to the Assistant Archivist for Records Services—Washington, DC, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Requests concerning information in Presidential libraries must be addressed to the Assistant Archivist for Presidential Libraries, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.

(d) Any such written request must include all of the following:

- (1) A description of the records or donated materials involved, identified with sufficient specificity to enable NARA to locate it with a reasonable amount of effort;
- (2) An explanation as to why the records should be closed and reviewed;
- (3) A statement as to the authority for any classification or reclassification, to include a reference to the specific category in section 1.4 or 3.3(b) of E.O. 12958, as appropriate; and

(4) Any information the agency may have concerning any previous public disclosure of the information. NARA will assist by providing information.

§ 1260.72 Can previously released White House originated information be reclassified or have its classification restored?

An agency or an entity within the Executive Office of the President that solely advises and assists the President, may ask NARA to temporarily close, review, and possibly reclassify or restore the classification of White House originated information that has been declassified and previously released. The agency or other entity must follow the same procedures as a request for reclassification of Executive branch originated information in 36 CFR 1260.70.

§ 1260.74 What if NARA does not concur with a request to reclassify or restore the classification of information that has been previously released?

(a) If NARA is concerned that relevant procedures and policies under E.O. 12958, as amended, or its Implementing Directives are not being properly implemented, the Archivist will promptly report such situations to the Director of ISOO.

(b) If, in the opinion of the Archivist, an agency's determination with respect to the classification status of records that have been previously released is improper, the Archivist, as an authorized holder, may challenge the classification status of the pertinent records in accordance with section 1.8 of E.O. 12958, as amended.

(c) NARA will direct any such challenge in writing to the agency with classification authority and jurisdiction over the information.

(d) If no response is provided by the agency within 120 days, NARA may forward the challenge directly to the Interagency Security Classification Appeals Panel (ISCAP). NARA must forward the challenge within 60 days of the agency's failure to provide a response within 120 days.

(e) If an agency appellate authority fails to provide NARA with a response to an appeal within 90 days of its receipt, NARA may forward the appeal directly to the Interagency Security Classification Appeals Panel (ISCAP). NARA must forward the challenge within 60 days of the agency's failure to provide a response to an appeal within 90 days.

(f) All records subject to classification challenges will remain classified pending final resolution of the challenge and, if necessary, any such appeals.

Dated: April 27, 2005.

Allen Weinstein,

Archivist of the United States.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–D–7628]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), 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 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: Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

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 base flood elevations 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. As a result, a regulatory flexibility analysis has not 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 [Amended]

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) •Elevation in feet (NAVD) | |
|----------------------|---|---|---|--|----------|
| | | | | Existing | Modified |
| North Carolina | Duplin County (Unincorporated Areas). | Camp Branch | At the confluence with Northeast Cape Fear River. | None | •69 |
| | | Elder Branch | At the confluence with Maxwell Creek. | None | •58 |
| | | Little Beaverdam Creek. | Approximately 0.1 mile upstream of Halls Pond Road. | None | •85 |
| | | Mire Branch | Approximately 1.4 miles upstream of Garner Chapel Road. | None | •109 |
| | | Reedy Branch (near Blizzards Crossroads). | Approximately 0.3 mile upstream of the Blizzards confluence with Mire Branch. | None | •114 |

Maps available for inspection at Duplin County Planning Department, 224 Seminary Street, Kenansville, North Carolina. Send comments to Mr. Fred Eldridge, Duplin County Manager, P.O. Box 910, Kenansville, North Carolina 28349.

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

Dated: August 4, 2005.

David I. Maurstad,

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

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