

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

Maps are available for inspection at Hendersonville City Hall, 145 Fifth Avenue East, Hendersonville, North Carolina. Send comments to The Honorable Greg Newman, Mayor of the City of Hendersonville, P.O. Box 1670, Hendersonville, North Carolina 28793.

**Town of Fletcher**

Maps are available for inspection at Fletcher Town Hall, 4005 Hendersonville Road, Fletcher, North Carolina. Send comments to The Honorable Mark Biberdors, Mayor of the Town of Fletcher, 4005 Hendersonville Road, Fletcher, North Carolina 28732.

**Town of Laurel Park**

Maps are available for inspection at Laurel Park Town Hall, 441 White Pine Drive, Laurel Park, North Carolina. Send comments to The Honorable Henry T. Johnson, Mayor of the Town of Laurel Park, 441 White Pine Drive, Laurel Park, North Carolina 28739.

**Town of Mills River**

Maps are available for inspection at Mills River Town Hall, 5046 Boylston Highway, Suite 3, Mills River, North Carolina. Send comments to The Honorable Roger Snyder, Mayor of the Town of Mills River, 5046 Boylston Highway, Suite 3, Mills River, North Carolina 28759.

**Henderson County (Unincorporated Areas)**

Maps are available for inspection at Henderson County Administration Building, 100 North King Street, Hendersonville, North Carolina. Send comments to Mr. Steve Wyatt, Henderson County Manager, 100 North King Street, Hendersonville, North Carolina 28792.

**Village of Flat Rock**

Maps are available for inspection at Flat Rock Village Hall, 110 Village Center Drive, Flat Rock, North Carolina. Send comments to The Honorable Ray E. Shaw, Jr., Mayor of the Village of Flat Rock, P.O. Box 1288, Flat Rock, North Carolina 28731.

**Clinton County, Pennsylvania, and Incorporated Areas**

Fishing Creek .....	Approximately 550 feet downstream of Peale Avenue	+567	+569	Borough of Mill Hall, Township of Bald Eagle, Township of Lamar, Township of Porter.
	Approximately 4420 feet upstream of Furnace Road (Township Route 323).	+860	+862	

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

**ADDRESSES**

**Borough of Mill Hall**

Maps are available for inspection at Beach Creek Avenue, Mill Hall, PA 17751. Send comments to The Honorable Thomas E. Bettner, Mayor, Mill Hall Borough, 117 North Chestnut Street, Mill Hall, PA 17751.

**Township of Bald Eagle**

Maps are available for inspection at 604 Lusk Run Road, Mill Hall, PA 17751. Send comments to Mr. Christopher Dwyer, Chairman Supervisor, Bald Eagle Township, 604 Lusk Run Road, Mill Hall, PA 17751.

**Township of Lamar**

Maps are available for inspection at 148 Beagle Road, Mill Hall, PA 17751. Send comments to Mr. Michael L. Geyer, Chairman, Lamar Township, 148 Beagle Road, Mill Hall, PA 17751.

**Township of Porter**

Maps are available for inspection at 153 Clintondale Hill Road, Mill Hall, PA 17751. Send comments to Mr. Larry Dotterer, Chairman, Porter Township, P.O. Box 95, Lamar, PA 16848.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: June 18, 2007.

**David I. Maurstad,**

*Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket No. FEMA-B-7720]

**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 Directorate, 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 tables 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>Allen County, Indiana, and Incorporated Areas</b>				
Aboite Creek .....	Approximately 350 feet downstream of Powell Road ..	+756	+755	Allen County (Unincorporated Areas).
Brown Ditch .....	Approximately 2,000 feet upstream of Powell Road .... At the confluence with Adam Schlemmer-Baker Ditch	+756 +793	+755 +792	
Bullerman Branch .....	Approximately 650 feet upstream of the confluence with Adam Schlemmer-Baker Ditch. Approximately 775 feet upstream of the confluence with Bullerman Ditch.	+793 +777	+792 +778	Allen County (Unincorporated Areas), City of Fort Wayne.
Durnell Ditch .....	Approximately 600 feet downstream of Stellhorn Road Approximately 1,056 feet upstream of Interstate Highway 69.	+777 +787	+778 +786	
Junk Ditch .....	Approximately 615 feet downstream of State Highway 14/Illinois Road. At the confluence with St. Mary's River .....	+808 +758	+807 +759	City of Fort Wayne.
Lawrence Branch .....	Approximately 150 feet upstream of Taylor Street ..... At the confluence with Flaugh Ditch .....	+775 +775	+776 +776	
Martin Ditch .....	Approximately 150 feet upstream of the confluence with Flaugh Ditch. At the confluence with Maumee River .....	+749 +749	+748 +748	City of New Haven.
St. Mary's River .....	Approximately 2,900 feet upstream of confluence with Maumee River. Just downstream of Bostick Road .....	+771	+772	
Willow Creek Branch No. 7 ..	At South County Line Road East .....	+776	+778	Allen County (Unincorporated Areas).
	At the confluence with Willow Creek .....	+825	+824	
	Approximately 1,500 feet downstream of Woods Road	+825	+824	

\* National Geodetic Vertical Datum.  
+ North American Vertical Datum.

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

# Depth in feet above ground.

**ADDRESSES**

**City of Fort Wayne**

Maps are available for inspection at 1 Main Street, Room 630, Fort Wayne, IN 46802.  
Send comments to The Honorable Graham Richard, Mayor, City of Fort Wayne, 1 Main Street, Fort Wayne, IN 46802.

**City of New Haven**

Maps are available for inspection at 815 Lincoln Highway East, New Haven, IN 46774.  
Send comments to The Honorable Terry E. McDonald, Mayor, City of New Haven, 815 Lincoln Highway East, New Haven, IN 46774.

**Allen County (Unincorporated Areas)**

Maps are available for inspection at 1 East Main Street, Room 630, Fort Wayne, IN 46802.  
Send comments to Linda K. Bloom, President, County Commissioners, 1 East Main Street, Room 200, Fort Wayne, IN 46802.

**Pearl River County, Mississippi, and Incorporated Areas**

East Hobolochitto Creek .....	Just upstream of West Union Road .....	None	+86	Pearl River County (Unincorporated Areas).
	Approximately 420 feet upstream of Savannah Millard Road.	None	+147	
Jumpoff Creek .....	At the confluence with East Hobolochitto Creek .....	None	+162	Pearl River County (Unincorporated Areas).
Juniper Creek .....	Just upstream of Norfolk Southern Railroad .....	None	+238	Pearl River County (Unincorporated Areas).
	At the confluence with East Hobolochitto Creek .....	None	+166	
Long Branch .....	Approximately 1,900 feet upstream of Dupont-Harris Road.	None	+252	Pearl River County (Unincorporated Areas).
	At the confluence with West Hobolochitto Creek .....	None	+72	
Mill Creek No. 1 .....	Approximately 6,900 feet upstream of Nelle Burkes Road.	None	+161	Pearl River County (Unincorporated Areas).
	At the Pearl River-Hancock County Boundary .....	None	+79	
No. 3 .....	Approximately 4,800 feet upstream of Mill Creek 2 Tributary 4.	None	+175	Pearl River County (Unincorporated Areas).
	Approximately 170 feet upstream of Boley Bypass Road.	None	+54	
No. 4 .....	Approximately 14,600 feet upstream of Highway 11 ...	None	+180	Pearl River County (Unincorporated Areas).
	Just upstream of the dam .....	None	+91	
West Hobolochitto Creek .....	Approximately 6,200 feet upstream of Rock Ranch Road.	None	+143	Pearl River County (Unincorporated Areas).
	Approximately 600 feet downstream of Henleyfield-McNeill Road.	None	+98	
White Sand Creek .....	Approximately 200 feet upstream of Highway 26 .....	+133	+130	Pearl River County (Unincorporated Areas).
	At the confluence with West Hobolochitto Creek .....	None	+129	
Wolf River .....	Approximately 4,050 feet upstream of White Sand Creek Tributary 7.	None	+247	Pearl River County (Unincorporated Areas).
	Approximately 16,100 feet downstream of McNeill-McHenry Road.	None	+120	
	Approximately 2,500 feet upstream of Highway 11 .....	None	+241	

\* National Geodetic Vertical Datum.

+ North American Vertical Datum.

# Depth in feet above ground.

**ADDRESSES**

**Pearl River County (Unincorporated Areas)**

Maps are available for inspection at Department of Planning and Development, 167 Savannah-Millard Road, Poplarville, MS 39470.  
Send comments to Ms. Bettye Stockstill, President, Board of Supervisors, Pearl River County Courthouse, 207 West Pearl Street, Poplarville, MS 39470.

**Smith County, Texas, and Incorporated Areas**

Blackhawk Creek .....	Approximately 2000 feet downstream of intersection with Blackjack Rd.	None	+332	City of Whitehouse (Smith County), Unincorporated Areas.
	Approximately 1750 feet upstream of intersection with FM 346 E.	None	+483	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
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Tributary 1 .....	Confluence with Blackhawk Creek ..... Approximately 250 feet upstream of Hagan Rd intersection.	None	+383	City of Whitehouse.
		None	+419	
Tributary 2 .....	Confluence with Blackhawk Creek ..... Approximately 2000 feet upstream of intersection with CR 2319.	None	+418	City of Whitehouse.
		None	+460	
Hill Creek .....	Approximately 3500 feet from intersection with Troup Highway.  Approximately 2500 feet downstream of intersection with Bascom Rd.	None	+379	City of Whitehouse (Smith County), Unincorporated Areas.
		None	+465	
Horsepen Branch .....	Approximately 8000 feet downstream of confluence with Kickapoo Creek. Approximately 1100 feet downstream of confluence with Kickapoo Creek.	None	+392	City of Troup.
		None	+411	
Mud Creek .....	Approximately 7000 feet downstream from intersection with Old Tyler Rd. (County Line). Approximately 140 feet upstream from intersection with Troup Highway.	None	+315	(Smith County) Unincorporated Areas.
		None	+333	
Prairie Creek South .....	Approximately 1750 feet downstream of intersection with Old Omen Rd.  1750 feet upstream of intersection with Henderson Hwy.	None	+382	(Smith County) Unincorporated Areas, New Chapel Hill.
		None	+422	
Prairie Creek Tributary 1 .....	Confluence with Prairie Creek South .....  1500 feet upstream from Dam .....	None	+391	(Smith County) Unincorporated Areas.
		None	+451	

\* National Geodetic Vertical Datum.

+ North American Vertical Datum.

# Depth in feet above ground.

#### ADDRESSES

##### City of Troup

Maps are available for inspection at 100 N. Broadway, Tyler, TX 75702.

Send comments to The Honorable John Whitsell, Mayor, City of Troup, PO Box 637, Troup, TX 75789.

##### City of Whitehouse

Maps are available for inspection at 100 N. Broadway, Tyler, TX 75702.

Send comments to The Honorable Jake Jacobson, Mayor, City of Whitehouse, PO Box 776, Whitehouse, TX 75791.

##### New Chapel Hill

Maps are available for inspection at 100 N. Broadway, Tyler, TX 75702.

Send comments to The Honorable Robert Whitaker, Mayor, 14475 State Hwy 64 E, Tyler, TX 75707.

##### Unincorporated Areas of Smith County

Maps are available for inspection at 100 N. Broadway, Tyler, TX 75702.

Send comments to The Honorable Joel P. Baker, County Judge, Smith County, 200 E. Ferguson, Ste. 100, Tyler, TX 75702.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: June 18, 2007.

**David I. Maurstad,**

*Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. E7-12692 Filed 6-29-07; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 212 and 225

RIN 0750-AF74

#### Defense Federal Acquisition Regulation Supplement; Waiver of Specialty Metals Restriction for Acquisition of Commercially Available Off-the-Shelf Items (DFARS Case 2007-D013)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to waive application of 10 U.S.C. 2533b for acquisitions of commercially available off-the-shelf (COTS) items. 10 U.S.C. 2533b, established by section 842 of the National Defense Authorization Act for Fiscal Year 2007, places restrictions on the acquisition of specialty metals not melted or produced in the United States.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before August 1, 2007, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2007-D013, using any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2007-D013 in the subject line of the message.

Fax: (703) 602-7887.

Mail: Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602-0328.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 842(a) of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364) establishes a new specialty metals domestic source restriction, which is codified at 10 U.S.C. 2533b. A proposed rule is being developed to comprehensively implement 10 U.S.C. 2533b in the DFARS. However, this proposed rule is being published separately in order to expedite the exercise of a statutory exception to the requirements of 10 U.S.C. 2533b for COTS items.

As defined in subsection (c) of 41 U.S.C. 431 (Section 35 of the Office of Federal Procurement Policy Act), "COTS item"—

- (i) Means any item of supply that is—
  - (A) A commercial item;
  - (B) Sold in substantial quantities in the commercial marketplace; and
  - (C) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and
- (ii) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

41 U.S.C. 431(a) requires that the acquisition regulations list the provisions of law that are inapplicable to contracts and subcontracts for COTS items. Covered provisions of law must be included on that list unless the Administrator of the Office of Federal Procurement Policy (OFPP) makes a written determination that it would not be in the best interest of the United States to exempt such contracts from the applicability of that provision of law. Covered provisions of law are those that, as determined by OFPP, impose on contractors Government-unique policies, procedures, requirements, or restrictions, except for—

- A provision of law that provides for criminal or civil penalties; or
- A provision of law that specifically refers to 41 U.S.C. 431, and states that the law is nevertheless applicable to COTS items.

10 U.S.C. 2533b does not provide for criminal or civil penalties; nor does it refer to 41 U.S.C. 431 and state that the law is nevertheless applicable to COTS items. Accordingly, this proposed rule—

- Creates a new DFARS section 212.570 to list 10 U.S.C. 2533b as

inapplicable to contracts and subcontracts for the acquisition of COTS items; and

- Includes acquisitions of COTS items containing specialty metals as an exception at DFARS 225.7002-2.

Exercise of this statutory COTS waiver is critical to DoD's access to the commercial marketplace. Manufacturers make component purchasing decisions based on factors such as cost, quality, availability, and maintaining the state of the art—not the country in which specialty metals in the components were melted. In addition, many commercial items commonly acquired in large quantities by DoD, such as computers, commercial-off-the shelf engines, and semi-conductors, may contain a small percentage of components made of specialty metals, subjecting the manufacturers to costly and burdensome, if not impossible, tracking requirements. Many manufacturers of COTS items are unwilling to change their existing processes, inventory systems, or facilities and incur the significant expense associated with tracking the sourcing of specialty metals in the components of a COTS item in order to generate sales to DoD, which typically represent a very small percentage of overall revenue for COTS items.

Section 2533b permits DoD to process a domestic non-availability determination, but such process poses difficulties for DoD in meeting mission-sensitive requirements in a timely manner. In order for DoD to be able to support a determination, a contractor must—

- (1) Work with its suppliers at every tier to identify non-compliant parts from among potentially hundreds of thousands of parts;

- (2) Determine that it cannot find a compliant source, either because lead times are longer than the contract permits, or because sufficient quantity is not available; and

- (3) Research whether and by when it can become compliant.

Once the information on noncompliant parts and their nonavailability is provided to DoD, the Department must conduct a validation review and develop a report to document the determination. All of these efforts taken together may entail thousands of hours of work, at considerable cost to the taxpayer, and a significant addition in lead time to the acquisition cycle.

For all of these reasons, an exemption from 10 U.S.C. 2533b for COTS items is in the best interest of the Government.

This rule was not subject to Office of Management and Budget review under