

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

**ADDRESSES**

**City of Caliente**

Maps are available for inspection at 100 Depot Avenue, Caliente, NV 89008.

**Unincorporated Areas of Lincoln County**

Maps are available for inspection at the Lincoln County Planning and Zoning Department, 181 Main Street, Suite 107, Pioche, NV 89043.

**Davison County, South Dakota, and Incorporated Areas**

Dry Run Creek .....	Approximately 1,554 feet downstream of SD Highway 38.	+1263	+1254	Unincorporated Areas of Davison County, City of Mitchell.
James River .....	Approximately 2,578 feet upstream of 407th Avenue ..	+1302	+1303	Unincorporated Areas of Davison County, City of Mitchell.
	Approximately 1,632 feet downstream of SD Highway 38.	None	+1223	
	Approximately 2.33 miles upstream from 245th Street	None	+1226	

\* National Geodetic Vertical Datum.

+ North American Vertical Datum.

# Depth in feet above ground.

^ Mean Sea Level, rounded to the nearest 0.1 meter.

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Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

**ADDRESSES**

**City of Mitchell**

Maps are available for inspection at 612 North Main Street, Mitchell, SD 57301.

**Unincorporated Areas of Davison County**

Maps are available for inspection at 200 East 4th Avenue, Mitchell, SD 57301.

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

Dated: June 15, 2009.

**Edward L. Connor,**

*Acting Assistant Administrator, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. E9-15673 Filed 7-1-09; 8:45 am]

**BILLING CODE 9110-12-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-B-1060]

**Proposed Flood Elevation Determinations**

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

**ACTION:** Proposed rule.

**SUMMARY:** Comments are requested on the proposed Base (1 percent annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents, and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

**DATES:** Comments are to be submitted on or before September 30, 2009.

**ADDRESSES:** The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community are available for inspection

at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA-B-1060, to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151, or (e-mail) [bill.blanton@dhs.gov](mailto:bill.blanton@dhs.gov).

**FOR FURTHER INFORMATION CONTACT:**

William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151 or (e-mail) [bill.blanton@dhs.gov](mailto:bill.blanton@dhs.gov).

**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.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered.

A letter acknowledging receipt of any comments will not be sent.

*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.

*Executive Order 12866, Regulatory Planning and Review.* This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

*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:

State	City/town/county	Source of flooding	Location**	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL)	
				Existing	Modified
<b>City of Williston, North Dakota</b>					
North Dakota .....	City of Williston .....	Sand Creek .....	Approximately 105 feet downstream of Riverside Drive West.	None	+1852
			Approximately 2.57 miles upstream of 11th Street.	None	+1941

\* National Geodetic Vertical Datum.

+ North American Vertical Datum.

# Depth in feet above ground.

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Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

**ADDRESSES**

**City of Williston**

Maps are available for inspection at 22 East Broadway, Williston, ND 58802.

Flooding source(s)	Location of referenced elevation**	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
<b>Perry County, Illinois, and Incorporated Areas</b>				
Beaucoup Creek .....	Approximately 200 feet upstream of the railroad at the east end of Cedar Point Lane. Approximately 913 feet upstream of the confluence with Railroad Tributary.	None	+407	Unincorporated Areas of Perry Co.
		None	+416	

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# Depth in feet above ground.

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**ADDRESSES**

**Unincorporated Areas of Perry Co**

Maps are available for inspection at Perry County Courthouse, 1 Public Square, Pinckneyville, IL 62274.

**Will County, Illinois, and Incorporated Areas**

Jackson Creek .....	At the confluence with Jackson Branch Creek .....	None	+627	Village of Manhattan.
	Just downstream of 104th Avenue .....	None	+752	

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**ADDRESSES**

**Village of Manhattan**

Maps are available for inspection at 245 South State Street, Manhattan, IL 60442.

**Woodford County, Illinois, and Incorporated Areas**

Illinois River .....	Approximately 173.4 miles upstream of the confluence with the Mississippi River (approximately Leisure Lane extended).	None	+460	Village of Bay View Gardens.
	Approximately 172 miles upstream of the confluence with the Mississippi River (approximately 1,500 feet upstream of Bruce Rich Lane extended).	None	+460	
Ten Mile Creek .....	Approximately 3 miles upstream of the confluence with the Illinois River (approximately Ten Mile Creek Road extended).	None	+507	Unincorporated Areas of Woodford County.
	Approximately 3.2 miles upstream of the confluence with the Illinois River (approximately 1,075 feet upstream of Ten Mile Creek Road extended).	None	+512	

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**ADDRESSES**

**Unincorporated Areas of Woodford County**

Maps are available for inspection at Woodford County Courthouse, 115 North Main Street, Eureka, IL 61530.

**Village of Bay View Gardens**

Maps are available for inspection at Bay View Gardens Village Hall, 300 Garber Lane #8, East Peoria, IL 61611.

**Black Hawk County, Iowa, and Incorporated Areas**

Big Woods Creek .....	Approximately 88 feet upstream of Lone Tree Road ...	None	+864	City of Cedar Falls, Unincorporated Areas of Black Hawk County.
	Just downstream of Cedar-Wapsi Road .....	None	+920	

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Big Woods Creek Upper Diversion.	Approximately 0.5 mile upstream of Mount Vernon Road.	None	+870	Unincorporated Areas of Black Hawk County.
	Approximately 0.6 mile upstream of Cedar-Wapsi Road.	None	+875	
Black Hawk Creek .....	Just upstream of West Shaulis Road .....	+872	+870	Unincorporated Areas of Black Hawk County, City of Hudson, City of Waterloo.
Cedar River .....	Approximately 975 feet downstream of Zaneta Road	+890	+891	City of Cedar Falls.
	Just upstream of Lone Tree Road and Interstate 218	None	+864	
	East of Big Woods Road and approximately 0.3 mile south of Dunkerton Road along Illinois Central Gulf Railroad.	None	+864	
Cedar River .....	Approximately 0.6 mile downstream of Interstate 218	+858	+859	City of Cedar Falls, City of Waterloo, Unincorporated Areas of Black Hawk County.
Cedar River Diversion Channel.	Approximately 2.1 miles upstream of Center Street ....	+868	+869	City of Cedar Falls.
	Approximately 440 feet downstream of State Highway 57.	+859	+860	
	Approximately 1.3 miles upstream of Illinois Central Railroad.	+864	+865	
City View Branch .....	Approximately 0.3 mile downstream of Independence Avenue.	+853	+847	City of Waterloo.
	Just downstream of Chicago and North Western Railroad.	+857	+859	
Crane Creek .....	Approximately 117 feet downstream of Wheeler Road	None	+936	Unincorporated Areas of Black Hawk County, City of Dunkerton.
Crossroads Creek .....	Just downstream of East Cedar Wapsi Road .....	None	+967	City of Waterloo.
	Approximately 91 feet downstream of Hess Road .....	None	+845	
	Approximately 514 feet upstream of Alexander Drive	None	+871	
Crossroads Creek Diversion	Approximately 91 feet downstream of Hess Road .....	+846	+849	City of Waterloo.
	Approximately 0.3 mile upstream of Sarah Drive .....	+866	+867	
Dry Run Creek Diversion .....	Approximately 271 feet upstream of Interstate 218 .....	+867	+864	City of Cedar Falls.
	Approximately 243 feet downstream of Interstate 218	+868	+866	
Dry Run Creek at Cedar Falls.	Approximately 293 feet downstream of Illinois Central Gulf Railroad.	+860	+852	City of Cedar Falls.
Dry Run Creek at Waterloo ..	Approximately 540 feet downstream of U.S. Route 20	+927	+928	City of Waterloo.
	Approximately 664 feet downstream of Commercial Street.	#1	#2	
Maywood Branch .....	Approximately 106 feet upstream of Byron Avenue ....	+868	+861	City of Waterloo.
	Approximately 0.5 mile upstream of Kimball Avenue ..	None	+942	
	Approximately 0.4 mile downstream of Bishop Avenue	+856	+855	
Myers Lake .....	Just upstream of Bishop Avenue .....	+858	+857	City of Evansdale.
	West end of lake .....	+826	+838	
	East end of lake .....	+826	+838	
Ponded Area No. 2, from Elk Run Creek, landside of levee.	North end of ponding area, approximately 0.3 mile downstream of LaFayette Road.	+833	+836	City of Evansdale.
	South end of ponding area, approximately 0.4 mile upstream of Gilbert Road.	+833	+836	
Ponded Area No.1 from Elk Run Creek, landside of levee.	North end of ponding area, approximately 150 feet downstream of Gilbert Drive.	+831	+836	City of Evansdale.
	South end of ponding area, approximately 350 feet upstream of State Route 380.	+831	+836	
South West Branch of Dry Run Creek.	Approximately 279 feet downstream of Main Street ....	+870	+865	City of Cedar Falls.
	Approximately 1.8 miles upstream of Future Greenhill Road.	+917	+921	
Stream No. 13 .....	Approximately 1.0 mile downstream of Wagner Road	+857	+856	City of Waterloo.
	Approximately 364 feet upstream of Airline Highway ..	+864	+863	
Stream No. 36 .....	Approximately 1.0 mile downstream of Wagner Road	+864	+863	City of Waterloo, Unincorporated Areas of Black Hawk County.
	Approximately 0.4 mile downstream of Dunkerton Road.	None	+870	

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Sunnyside Creek .....	Approximately 0.3 mile downstream of Martin Road ...	None	+855	City of Waterloo.
	Approximately 130 feet upstream of 4th Street .....	None	+878	
Sunnyside Creek Bypass .....	Approximately 0.6 mile downstream of Marine Avenue	+858	+861	City of Waterloo.
	Approximately 450 feet upstream of Marine Avenue ...	None	+869	
Unnamed Tributary to Big Woods Creek.	Just downstream of Dunkerton Road .....	None	+864	City of Cedar Falls.
	Approximately 408 feet West of Interstate 218 .....	None	+864	
Unnamed Tributary to Big Woods Creek.	Approximately 0.5 mile upstream of Mount Vernon Road.	None	+871	Unincorporated Areas of Black Hawk County.
	Just upstream of Dunkerton Road .....	None	+871	
Unnamed Tributary to Cedar River.	Approximately 182 feet downstream of Dunkerton Road.	+863	+864	City of Cedar Falls.
	Just upstream of Lone Tree Road .....	+863	+864	
Wolf Creek .....	Approximately 0.6 mile downstream of Bike Path .....	+814	+815	City of La Porte City.
	Approximately 1.3 miles upstream of Main Street .....	None	+824	
Wolf Creek Overflow .....	Approximately 0.4 mile downstream of 8th Street .....	+814	+815	City of La Porte City, Unincorporated Areas of Black Hawk County.
	Approximately 1.3 miles upstream of Poplar Street ....	+822	+823	

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Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

**ADDRESSES**

**City of Cedar Falls**

Maps are available for inspection at 220 Clay Street, Cedar Falls, IA 50613.

**City of Dunkerton**

Maps are available for inspection at 200 Tower Street, Dunkerton, IA 50626.

**City of Evansdale**

Maps are available for inspection at 123 North Evans Road, Evansdale, IA 50707.

**City of Hudson**

Maps are available for inspection at 525 Jefferson Street, Hudson, IA 50643.

**City of La Porte City**

Maps are available for inspection at 202 Main Street, LaPorte City, IA 50651.

**City of Waterloo**

Maps are available for inspection at 715 Mulberry Street, Waterloo, IA 50703.

**Unincorporated Areas of Black Hawk County**

Maps are available for inspection at 316 East 5th Street, Suite 203, Waterloo, IA 50703.

**Cumberland County, Maine, and Incorporated Areas**

Atlantic Ocean .....	Along the shoreline at the intersection of Hannaford Cove Road, Cunner Lane and Rocky Point Lane.	+8	+12	Town of Scarborough, Town of Cape Elizabeth.
	Along the shoreline, approximately 1,050 feet east of the intersection of Shore Road and Dyer Pond Road.	None	+42	
Casco Bay .....	Along the shoreline, approximately 625 feet south of the intersection of Tondreau Point Road and Birch Run.	+8	+10	Town of Cape Elizabeth, City of Portland, City of South Portland, Town of Cumberland, Town of Harpswell.
	Along the shoreline, approximately 100 feet east of the intersection of Bluff Road and Cloyster Road.	None	+41	
Crescent Lake .....	Along the shoreline at Edwards Road .....	None	+278	Town of Casco. City of South Portland, City of Portland.
Fore River .....	Along the shoreline, at the terminus of Portland Street	None	+14	
	Along the shoreline, approximately 430 feet south of the intersection of Commercial Street and Chandler Wharf.	+9	+14	

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Jackson Brook .....	Approximately 1,500 feet south of the intersection of Thomas Drive and County Road.	None	+45	City of Portland.
Presumpscot River .....	Approximately 1,250 feet west of the intersection of Cardinal Lane and River Road.	None	+225	Town of Standish.
Saco Bay .....	Along the shoreline, approximately 1,200 feet west of the intersection of Ferry Road and Black Point Road.	None	+12	Town of Scarborough.
	Along the shoreline at the intersection of Black Point Road and Whittier Lane.	+8	+24	

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#### ADDRESSES

##### City of Portland

Maps are available for inspection at City Hall, 389 Congress Street, Portland, ME 04101.

##### City of South Portland

Maps are available for inspection at City Hall, 25 Cottage Road, South Portland, ME 04106.

##### Town of Cape Elizabeth

Maps are available for inspection at Town Hall, 320 Ocean House Road, Cape Elizabeth, ME 04107.

##### Town of Casco

Maps are available for inspection at Town Hall, 635 Meadow Road, Casco, ME 04015.

##### Town of Cumberland

Maps are available for inspection at Town Hall, 290 Tuttle Road, Cumberland, ME 04021.

##### Town of Harpswell

Maps are available for inspection at Town Hall, 263 Mountain Road, Harpswell, ME 04079.

##### Town of Scarborough

Maps are available for inspection at Town Hall, 259 U.S. Route 1, Scarborough, ME 04074.

##### Town of Standish

Maps are available for inspection at Town Office, 175 Northeast Road, Standish, ME 04084.

#### Walthall County, Mississippi, and Incorporated Areas

Magees Creek .....	Approximately 4,050 feet downstream of State Highway 198.	None	+258	Unincorporated Areas of Walthall County.
	Approximately 2,300 feet upstream of State Highway 198.	None	+264	

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#### ADDRESSES

##### Unincorporated Areas of Walthall County

Maps are available for inspection at 200 Ball Avenue, Tylertown, MS 39667.

#### St. Charles County, Missouri, and Incorporated Areas

Blanchette Creek (Backwater from Missouri River).	Just downstream of Katy Trail/Abandoned Railroad ....	+454	+455	Unincorporated Areas of St. Charles County, City of St. Charles.
	At the confluence with the Missouri River .....	+454	+455	

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) + Elevation in feet (NAVD) #Depth in feet above ground ^ Elevation in meters (MSL)		Communities affected
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Crystal Springs Creek (Backwater from Missouri River).	At the confluence with the Missouri River .....	+456	+457	Unincorporated Areas of St. Charles County, City of St. Charles.
	Approximately 871 feet upstream of South River Road.	+456	+457	
Duckett Creek (Overflow from Missouri River).	At the confluence with the Missouri River .....	+461	+462	Unincorporated Areas of St. Charles County.
	Approximately 0.5 miles upstream of Jungs Station Road.	+462	+463	
Femme Osage Creek (Backwater from Missouri River).	Approximately 0.4 miles downstream of State Highway 94.	+474	+476	Unincorporated Areas of St. Charles County.
	Approximately 1.4 miles downstream of Defiance Road.	+475	+476	
Mississippi River .....	At the St. Charles County, Missouri/St. Louis County, Missouri/Madison County, Illinois county boundary, approximately 6.2 miles downstream of Melvin Price Lock and Dam.	+436	+434	Unincorporated Areas of St. Charles County, City of O'Fallon, City of Portage Des Sioux, City of St. Charles, City of St. Paul, City of St. Peters, Town of West Alton.
	At the St. Charles County/Lincoln County boundary, approximately 3.0 miles upstream of confluence with Peruee Creek.	+445	+444	
Missouri River .....	At the St. Charles County, Missouri/St. Louis County, Missouri/Madison County, Illinois county boundary, approximately 7.4 miles downstream of the Lewis Bridge.	+436	+434	Unincorporated Areas of St. Charles County, City of St. Charles, City of Weldon Spring, Town of West Alton, Village of Augusta.
	Near the St. Charles County/Warren County boundary, approximately 22.3 miles upstream of the Danel Boon Bridge.	+486	+492	
Taylor Branch (Backwater from Missouri River).	At the confluence with the Missouri River .....	+458	+460	Unincorporated Areas of St. Charles County, City of St. Charles.
	Approximately 0.6 miles upstream of South River Road.	+458	+460	

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**ADDRESSES**

**City of O'Fallon**

Maps are available for inspection at 100 North Main Street, O'Fallon, MO 63366.

**City of Portage Des Sioux**

Maps are available for inspection at 201 North Second Street, Room 420, St. Charles, MO 63301.

**City of St. Charles**

Maps are available for inspection at 200 North Second Street, St. Charles, MO 63301.

**City of St. Paul**

Maps are available for inspection at 2300 St. Paul Road, St. Paul, MO 63366.

**City of St. Peters**

Maps are available for inspection at 1 St. Peters Centre Boulevard, St. Peters, MO 63376.

**City of Weldon Spring**

Maps are available for inspection at 5401 Independence Road, Weldon Springs, MO 63304.

**Town of West Alton**

Maps are available for inspection at 201 North Second Street, Room 420, St. Charles, MO 63301.

**Unincorporated Areas of St. Charles County**

Maps are available for inspection at 201 North Second Street, Room 420, St. Charles, MO 63301.

**Village of Augusta**

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Maps are available for inspection at 201 North Second Street, Room 420, St. Charles, MO 63301.

#### Sequoyah County, Oklahoma, and Incorporated Areas

Hog Creek .....	Just upstream of East 1040 Road .....	+578	+577	Unincorporated Areas of Sequoyah County.
	Approximately 0.85 miles upstream of East 1040 Road.	+617	+619	
Sewage Disposal Pond .....	Just downstream of Pacific Union railroad .....	None	+481	Town of Gore.
	Approximately 0.47 miles downstream of Union Pacific railroad.	None	+481	

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#### ADDRESSES

##### Town of Gore

Maps are available for inspection at 201 North Main Street, Gore, OK 74435.

##### Unincorporated Areas of Sequoyah County

Maps are available for inspection at 117 South Oak Street, Salisaw, OK 74955.

#### Bledsoe County, Tennessee, and Incorporated Areas

Sequatchie River .....	Approximately 1,200 feet downstream of State Highway 30.	None	+819	Bledsoe County.
	Approximately 2,745 feet downstream of Upper East Valley Road.	None	+825	

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#### ADDRESSES

##### Bledsoe County

Maps are available for inspection at 3031 Main St, Suite 600, Pikeville, TN 37367.

#### Goliad County, Texas, and Incorporated Areas

San Antonio River .....	Approximately 600 feet upstream of confluence with Maddox Branch.	None	+142	Unincorporated Areas of Goliad County.
	Approximately 1,300 feet upstream of South San Patricio Street.	None	+147	

\* National Geodetic Vertical Datum.

+ North American Vertical Datum.

# Depth in feet above ground.

^ Mean Sea Level, rounded to the nearest 0.1 meter.

\*\* BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.



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

**ADDRESSES**

**Unincorporated Areas of Goliad County**

Maps are available for inspection at 127 N. Courthouse Square, Goliad, TX 77963-0677.

**Taylor County, Texas, and Incorporated Areas**

Button Willow Creek .....	Just downstream of Treadway Boulevard .....	+1755	+1756	City of Abilene.
	Just upstream of Beltway South .....	None	+1825	
Cat Claw Creek .....	At the confluence with Elm Creek .....	+1679	+1677	City of Abilene.
	Just upstream of 14th Street .....	+1739	+1738	
Cat Claw Creek .....	Just upstream of Rebecca Lane .....	+1780	+1779	City of Abilene, Unincorporated Areas of Taylor County.
	Approximately two miles upstream of Farm-to-Market Road 707.	None	+1842	
Cat Claw Creek Diversion Channel.	At the confluence with Cat Claw Creek .....	+1752	+1758	City of Abilene.
	Just upstream of Nonesuch Road .....	+1759	+1762	
Cat Claw Creek Diversion Channel 1.	At the confluence with Cat Claw Drive Channel .....	+1761	+1762	City of Abilene.
	Just upstream of Nonesuch Road .....	+1761	+1762	
Cat Claw Drive Channel .....	Just downstream of Southwest Drive .....	+1761	+1762	City of Abilene.
	At the confluence with Cat Claw Creek .....	+1766	+1777	
Cedar Creek .....	Just upstream of North 10th Street .....	+1687	+1688	City of Abilene, Unincorporated Areas of Taylor County.
	Just downstream of Beltway South .....	+1790	+1791	
Elm Creek .....	Approximately 0.7 miles downstream of Nugent Road.	None	+1650	City of Abilene, Unincorporated Areas of Taylor County.
	At the confluence with Elm Creek Loop 1 .....	None	+1664	
	Just upstream of Edgemeont Drive .....	+1764	+1765	
	Approximately one mile upstream from Farm-to-Market Road 707.	None	+1831	
Elm Creek .....	Just upstream of Winters Freeway Service .....	+1684	+1685	City of Abilene.
	Just downstream of US Highway 83 .....	+1705	+1704	
Elm Creek Diversion 1 .....	At the confluence with Elm Creek .....	+1724	+1725	City of Abilene.
	Just downstream of Don Juan Street .....	#2	+1727	
Elm Creek Loop 1 .....	Ending at the lower confluence with Elm Creek .....	None	+1656	City of Abilene, Unincorporated Areas of Taylor County.
	Starting at the upper confluence with Elm Creek .....	None	+1663	
Elm Creek Overflow .....	At the confluence with Little Elm Creek .....	+1734	+1732	City of Abilene.
	Approximately 1,800 feet upstream of Twilight Trail ...	#2	+1769	
Elm Creek Overflow Path 1 ..	At the confluence with Swale A-1 .....	+1682	+1685	City of Abilene.
	Just upstream of Ambler Avenue .....	+1700	+1701	
Elm Creek Overflow Path 1-A.	At the confluence with Elm Creek Overflow Path 1 .....	+1693	+1696	City of Abilene.
	Approximately 0.5 miles upstream of Ambler Avenue	+1703	+1702	
Elm Creek Overflow Path 2 ..	At the confluence with Elm Creek .....	+1704	+1702	City of Abilene.
	Just downstream of the Texas and Pacific Railroad ...	#2	+1721	
Elm Creek to Cedar Creek Overflow.	Approximately 1.3 miles downstream of Farm-to-Market Road 3308.	None	+1646	City of Abilene, Unincorporated Areas of Taylor County.
	Just downstream of Farm-to-Market Road 3308 .....	+1657	+1656	
Indian Creek .....	At the confluence with Elm Creek .....	+1690	+1693	City of Abilene, Unincorporated Areas of Taylor County.
	Approximately 0.9 miles upstream of Shirley Road .....	None	+1699	
Little Elm Creek .....	At the confluence with Elm Creek .....	+1700	+1702	City of Abilene, Unincorporated Areas of Taylor County.
	Approximately one mile upstream of Dyess Air Force Service Road.	None	+1784	
Little Elm Creek Overflow A	At the confluence with Little Elm Creek .....	+1730	+1729	City of Abilene.
	At the confluence with Elm Creek Overflow .....	#2	+1750	

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Lytle Creek .....	At the confluence with Cedar Creek .....	+1696	+1697	City of Abilene, Unincorporated Areas of Taylor County.
Rainy Creek .....	Just downstream of County Road 111-1 .....	+1759	+1760	City of Abilene.
	Just downstream of Lowden Street .....	None	+1670	
	Just upstream of Griffith Street .....	None	+1682	
	Approximately 0.5 miles downstream of North 10th Street.	None	+1688	
Swale A .....	Just downstream of North 10th Street .....	None	+1696	City of Abilene.
	Just upstream of Interstate 20 .....	+1681	+1685	
Swale A-1 .....	Just downstream of State Street .....	None	+1713	City of Abilene.
	Just upstream of Interstate 20 .....	+1687	+1685	
Tributary No. 1 to Elm Creek	Just downstream of Yale Avenue .....	None	+1715	City of Abilene, Unincorporated Areas of Taylor County.
	At the confluence with Elm Creek .....	+1766	+1767	
Tributary No. 1 to Little Elm Creek.	Approximately 1.6 miles upstream of Rebecca Lane ..	None	+1792	City of Abilene.
	Just downstream of Interstate 20 Business .....	+1711	+1712	
Tributary No. 2 to Elm Creek	Approximately 1.5 miles upstream of Interstate 20 Business.	None	+1734	City of Abilene, Unincorporated Areas of Taylor County.
	At the confluence with Elm Creek .....	+1774	+1781	
Unnamed Tributary to Cat Claw Creek.	Just upstream of County Road 314 .....	None	+1811	City of Abilene.
	At the confluence with Cat Claw Creek .....	+1802	+1803	
Unnamed Tributary to Rainy Creek.	Approximately 600 feet upstream of Rio Mesa Road ..	None	+1821	City of Abilene.
	At the confluence with Rainy Creek .....	None	+1694	
	Just downstream of Stamford Street .....	None	+1695	

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Send comments to William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

**ADDRESSES**

**City of Abilene**

Maps are available for inspection at 555 Walnut St., Abilene, TX 79601.

**Unincorporated Areas of Taylor County**

Maps are available for inspection at 400 Oak Street, Suite 107, Abilene, TX 79602.

**Polk County, Wisconsin, and Incorporated Areas**

Balsam Lake .....	Entire Shoreline .....	None	+1135	Unincorporated Areas of Polk County, Village of Balsam Lake.
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\*\* BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

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**ADDRESSES**

**Unincorporated Areas of Polk County**

Maps are available for inspection at Government Center, 100 Polk County Plaza, Balsam Lake, WI 54810.

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

**Village of Balsam Lake**

Maps are available for inspection at Village Hall, 404 Main Street, Balsam Lake, WI 54810.

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

Dated: June 17, 2009.

**Deborah S. Ingram,**

*Acting Deputy Assistant Administrator for Mitigation, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. E9-15674 Filed 7-1-09; 8:45 am]

**BILLING CODE 9110-12-P**

**FEDERAL MARITIME COMMISSION****46 CFR Part 535**

[Docket No. 09-02]

RIN 3072-AC35

**Repeal of Marine Terminal Agreement Exemption**

**AGENCY:** Federal Maritime Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Maritime Commission proposes to repeal the exemption from the 45-day waiting period requirement applicable to certain Marine Terminal Agreements. The Commission also proposes to correct a typographical error in its regulations.

**DATES:** Comments are due by August 17, 2009.

**ADDRESSES:** Address all comments concerning this proposed rule to: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573-0001, [Secretary@fmc.gov](mailto:Secretary@fmc.gov), (202) 523-5725.

**FOR FURTHER INFORMATION CONTACT:** Peter J. King, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1018, Washington, DC 20573-0001, [generalcounsel@fmc.gov](mailto:generalcounsel@fmc.gov), (202) 523-5740.

**SUPPLEMENTARY INFORMATION:**

*Submit Comments:* Submit an original and 15 copies of comments in paper form, and submit a copy in electronic form (Microsoft Word 2003) by e-mail to [secretary@fmc.gov](mailto:secretary@fmc.gov). Include in the e-mail subject line: "Comments on Repeal of Marine Terminal Agreement Exemption".

Under section 16 of the Shipping Act, the Commission may exempt any class of agreements from the requirements of the Act if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. 46 U.S.C. 40103. The Commission may attach conditions to any exemption. *Id.* An exemption previously granted may be revoked, by order, after affording interested persons an opportunity for a hearing. *Id.*

In Docket No. 85-10, the Commission determined that it would exempt certain marine terminal agreements from the 45-day waiting period requirement, based upon its finding that such exemption would not substantially impair effective regulation by the Commission, be unjustly discriminatory or detrimental to commerce, nor result in a substantial reduction in competition within the meaning of Section 16 of the Shipping Act. *Marine Terminal Agreements*, 24 S.R.R. 192, 193-194 (FMC 1987). Initially adopted as section 572.307, this provision was later re-designated as section 535.308.

In the years since September 11, 2001, agreements filed with the Commission by marine terminal operators (MTOs) reveal the greater complexity of subject matter and the wider range of operational issues that the marine terminal industry seeks to address in MTO agreements. See, e.g., testimony of Win Froelich of the National Association of Waterfront Employers before the House Transportation and Infrastructure Committee, Subcommittee on Coast Guard and Maritime Transportation (June 19, 2008) at 8 (citing, *inter alia*, newly created or imposed responsibilities for MTOs in areas of traffic congestion and noise issues, pollution abatement, and port security).

As port agreements have evolved beyond simple landlord-tenant issues, such agreements increasingly have the potential to incur the anticompetitive consequences that the Commission deemed unlikely when it first adopted the exemption. Under current rule 535.308, marine terminal agreements become effective upon filing, depriving

the Commission of pre-effectiveness opportunity to review the agreements during the statutory 45-day waiting period and the opportunity to seek access to additional information from the agreement parties necessary for the Commission to perform its statutory duties under section 6 of the Shipping Act, 46 U.S.C. 40304, 41307. The absence of any waiting period requirement for marine terminal agreements under section 535.308 may frustrate the Commission's function of preventing a reduction in competition under section 6 of the Shipping Act, whether filed by public or private MTO parties. It therefore appears that section 535.308 may no longer be serving the original intent of the Commission's rulemaking.

In addition, recent review by the Commission of a marine terminal agreement filed under § 535.308 demonstrates that the application and interpretation of the exemption has proven relatively complex to the industry and to counsel:

In considering the plain text of the cited provision, the operative requirements of the foregoing exemption specify application of the exemption only to: (1) An agreement, written or oral; (2) that applies to future, prospective activities; (3) that relates solely to marine terminal facilities and/or services; (4) among marine terminal operators and among one or more marine terminal operators and one or more ocean common carriers; and (5) that completely sets forth the applicable rates, charges, terms and conditions agreed to by the parties for the facilities and/or services. The burden of establishing the applicability of an exemption falls on the person claiming the exemption.

*Petition of Certain Marine Terminal Operator Parties to Agreement No. 201199*, Petition No. P2-08, Order at 5-6 (January 16, 2009). Further, such exempt agreements must not be a joint venture agreement, marine terminal conference agreement, marine terminal discussion agreement or marine terminal interconference agreement. 46 CFR 535.308(a). The current provisions have underscored the potential for future confusion and dispute as to the proper application of the section 535.308 exemption.