

(their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

If any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion."

(6) Reopener

(A) If, anytime after disposal of the delisted waste Bayer possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or ground water monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Division Director in granting the petition, then the facility must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data.

(B) If either the quarterly or annual testing of the waste does not meet the delisting requirements in paragraph 1, Bayer must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data.

(C) If Bayer fails to submit the information described in paragraphs (5),(6)(A) or (6)(B) or if any other information is received from any source, the Division Director will make a preliminary determination as to whether the reported information requires EPA action to protect human health and/or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.

(D) If the Division Director determines that the reported information requires action by EPA, the Division Director will notify the facility in writing of the actions the Division Director believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed EPA action is not necessary. The facility shall have 10 days from the date of the Division Director's notice to present such information.

(E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Division Director will issue a final written determination describing EPA actions that are necessary to protect human health and/or the environment. Any required action described in the Division Director's determination shall become effective immediately, unless the Division Director provides otherwise.

* * * * *

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BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA-P-7913]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), 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 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 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, 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 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 has resolved any appeals resulting from this notification.

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

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 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 maintain community eligibility in the

section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735. *Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132. *Executive Order 12988, Civil Justice Reform.* This 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.

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:

Source of flooding and location of referenced elevation	◆ Elevation in feet (NAVD)		Communities affected
	Existing	Modified	
Bull Creek: Approximately 480 feet upstream of the confluence with the Marais des Cygnea River.	None	837	City of Paola, Miami County, (Unincorporated Areas).
Approximately 11,250 feet upstream of the confluence of Ten Mile Creek	None	874	
Hickory Creek: At the confluence with Bull Creek	859	857	City of Paola, Miami County, (Unincorporated Areas).
Approximately 185 feet downstream of South East Street	None	867	
Marais Des Cygnes River: At the confluence of Pottawatomie Creek	None	858	City of Osawatomie, Miami County, (Unincorporated Areas).
Approximately 6,800 feet upstream of Eighth Street	None	863	
Middle Creek: At the southern county boundary	None	823	Miami County, (Unincorporated Areas).
Approximately 2,880 feet upstream of Jingo Road	None	946	
M.K.T. Tributary to Bull Creek: At the confluence with Bull Creek	868	864	City of Paola, Miami County, (Unincorporated Areas).
Approximately 40 feet downstream of the Union Pacific Railroad	868	867	
North Wea Creek: At the confluence with South Wea Creek	None	889	Miami County, (Unincorporated Areas).
At West 215th Street	None	1,073	
Pottawatomie Creek: At the confluence with Marais Des Cygnes River	None	859	City of Osawatomie, Miami County, (Unincorporated Areas).
Approximately 4,920 feet upstream of the confluence with Marais Des Cygnes River.	None	859	
South Wea Creek: At the confluence with Bull Creek	None	854	City of Louisburg, City of Paola, Miami County, (Unincorporated Areas).
At Metcalf Road	None	983	
Sweetwater Creek: At the confluence with Ten Mile Creek	None	921	Miami County, (Unincorporated Areas).
At West 215th Street	None	987	
Ten Mile Creek: At the confluence with Bull Creek	None	871	Miami County, (Unincorporated Areas).
At West 215th Street	None	1,048	
Tributary to Hickory Creek:			

At the confluence with Hickory Creek	859	858	City of Paola.
Approximately 30 feet downstream of East Osage Street			

ADDRESSES

City of Louisburg, Miami County, Kansas.

Maps are available for inspection at City Hall, 5 South Peoria, Suite 102, Louisburg, Kansas.
Send comments to The Honorable Arlene Thompson, Mayor, City of Louisburg, City Hall, 5 South Peoria, Suite 102, Louisburg, Kansas 66071.

City of Osawatomie, Miami County, Kansas.

Maps are available for inspection at City Hall, 439 Main Street, Osawatomie, Kansas.
Send comments to The Honorable Tom Speck, Mayor, City of Osawatomie, 439 Main Street, Osawatomie, Kansas 66064.

City of Paola, Miami County, Kansas.

Maps are available for inspection at City Hall, 19 East Peoria, Paola, Kansas.
Send comments to The Honorable Artie Stuteville, Mayor, City of Paola, City Hall, 19 East Peoria, Paola, Kansas 66071.

Unincorporated Areas of Miami County, Kansas.

Maps are available for inspection at Miami County Administration Building, 201 South Pearl Street, Suite 201, Paola, Kansas.
Send comments to The Honorable Art Godfrey, Chairman, Miami County Board of Commissioners, Miami County Administration Building, 201 South Pearl Street, Suite 200, Paola, Kansas 66071.

◆ North American Vertical Datum of 1988.

Source of flooding and location of referenced elevation	◆ Elevation in feet (NAVD)		Communities affected
	Existing	Modified	
Middle Fork Salt River: Approximately 3,200 feet downstream of Florida Street	None	646	Monroe County, (Unincorporated Areas). City of Paris.
Approximately 4,640 feet upstream of State Highway 15	None	654	
Payne Branch: At the confluence with Middle Fork Salt River, approximately 1,400 feet downstream of Caldwell Street.	None	647	City of Paris.
Approximately 1,510 feet upstream of Hickory Street	None	694	
West Fork Payne Branch: At the confluence with Payne Branch, approximately 600 feet downstream of Combs Street.	None	663	City of Paris.
Approximately 1,540 feet upstream of Combs Street	None	693	

ADDRESSES

Unincorporated area of Monroe County, Missouri.

Maps are available for inspection at the Community Map Repository, Monroe County Courthouse, 300 North Main Street, Paris, Missouri.
Send comments to Mr. Donald Simpson, Presiding Commissioner, Monroe County Courthouse, 300 North Main Street, Paris, Missouri 65275–1399.

City of Paris, Monroe County, Missouri.

Maps are available for inspection at the Community Map Repository, City of Paris, 124 West Caldwell Street, Paris, Missouri.
Send comments to The Honorable Russell Peterson, Mayor, City of Paris, 124 West Caldwell Street, Paris, Missouri 65275–1397.

◆ North American Vertical Datum of 1988.

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

Dated: February 2, 2006.

David I. Maurstad,
Acting Director, Mitigation Division, 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–P–7905]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), 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 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 ninety (90) days following the second