

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

Dated: July 6, 2005.

**David I. Maurstad,**

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

[FR Doc. 05-13930 Filed 7-14-05; 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).

**DATES:** *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 recordkeeping 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:

Source of flooding and location of referenced elevation	♦ Elevation in feet (NAVD) Modified	Communities affected
Boggs Creek: Approximately 100 feet upstream of East McCarty Street .. Approximately 3,400 feet upstream of Scenic Drive .....	♦556 ♦612	FEMA Docket No. P7675, City of Jefferson City.
Dickerson Creek: Approximately 120 feet upstream of Business U.S. Highway 50. Approximately 1,880 feet upstream of confluence of Dickerson Creek Tributary No. 2.	♦648 ♦723	Cole County, (Unincorporated Areas).
Dickerson Creek Tributary No. 1: Approximately 180 feet upstream of the confluence with Dickerson Creek. Approximately 740 feet upstream of Business U.S. Highway 50.	♦648 ♦651	FEMA Docket No. P7675, Cole County (Unincorporated Areas).
Dickerson Creek Tributary No. 2: At confluence with Dickerson Creek .....	♦700	City of Jefferson City Cole County (Unincorporated Areas).
Approximately 2,750 feet upstream of U.S. Highway 50 ....	♦727	
East Branch Wears Creek:		

Source of flooding and location of referenced elevation	♦ Elevation in feet (NAVD) Modified	Communities affected
At confluence with Wears Creek .....	♦561	City of Jefferson City.
Approximately 150 feet upstream of Lafayette Street .....	♦578	
Grays Creek:		
At the confluence with Missouri River .....	♦562	City of Jefferson City Cole County (Unincorporated Areas).
Approximately 2.2 miles upstream of State Highway 179/ Rock Hill Road.	♦562	
Grays Creek Tributary:		
At the confluence with Grays Creek .....	♦562	City of Jefferson City.
Approximately 4,180 feet upstream of confluence with Grays Creek.	♦562	
Moreau River:		
At the confluence with Missouri River .....	♦552	City of Jefferson City Cole County (Unincorporated Areas).
Approximately 5.2 miles upstream of U.S. Highway 54 .....	♦591	
North Branch Wears Creek:		
At confluence with Wears Creek: .....	♦561	FEMA Docket No. P7675, City of Jefferson City.
Approximately 30 feet upstream of Schellridge Drive/Jay- cee Drive.	♦614	
Osage River:		
At the eastern County Boundary (approximately 7,750 feet downstream of Union Pacific Railroad).	♦548	City of Wardsville, Cole County (Unincorporated Areas).
Approximately 10.1 miles upstream of State Highway B ....	♦563	
Wears Creek:		
Approximately 80 feet downstream of West Main Street ....	♦557	City of Jefferson City, Cole County (Unincorporated Areas).
Approximately 2,850 feet upstream of Frog Hollow Road ..	♦609	

**ADDRESSES:****Unincorporated Areas of Cole County, Missouri**

Maps are available for inspection at the Department of Public Works, 5055 Monticello Road, Jefferson City, Missouri.

**City of Jefferson City, Cole County, Missouri**

Maps are available for inspection at City Hall, 320 East McCarty Street, Jefferson City, Missouri.

**City of Wardsville, Cole County, Missouri**

Maps are available for inspection at 5805 Wardsville Road, Jefferson City, Missouri.

Big Papillion Creek:		
Approximately 750 feet downstream of Harrison Street .....	♦997	FEMA Docket No. P7675, City of Omaha.
Approximately 200 feet downstream of Burlington Northern & Santa Fe Railway.	♦1,003	
Elkhorn River:		
Approximately 7,800 feet downstream of West Q Road .....	♦1,102	Douglas County (Unincorporated Areas).
Approximately 4,350 feet downstream of West Q Road .....	♦1,105	
Platte River:		
Approximately 23,200 feet downstream of West Center Road/U.S. Highway 275/State Highway 92.	♦1,102	Douglas County (Unincorporated Areas).
At the northern County Boundary (approximately 35,500 feet upstream of Ida Street/State Highway 64).	♦1,192	

**ADDRESSES:****Unincorporated Areas of Douglas County, Nebraska**

Maps are available for inspection at Community Map Repository, 3015 Menke Circle, Omaha, Nebraska.

**City of Omaha, Douglas County, Nebraska**

Maps are available for inspection at the Community Map Repository, City of Omaha, 1819 Farnam Street, Omaha, Nebraska.

Elkhorn River:		
Just upstream of the confluence with the Platte River .....	♦1,086	FEMA Docket No. P7675 Sarpy County (Unincorporated Areas).
At the northern County Boundary (approximately 5.75 miles upstream of the confluence with the Platte River).	♦1,103	
Platte River:		
Approximately 800 feet upstream of the confluence with the Missouri River.	♦966	Sarpy County (Unincorporated Areas).
At the northern County Boundary (approximately 5.11 miles upstream of the confluence of the Elkhorn River).	♦1,106	
Springfield Creek:		
At the confluence with the Platte River .....	♦1,011	Sarpy County (Unincorporated Areas).
Approximately 200 feet upstream of Buffalo Road .....	♦1,011	

**ADDRESSES:****Unincorporated Areas of Sarpy County, Nebraska**

Maps are available for inspection at the Community Map Repository, Sarpy County Courthouse, 1210 Golden Gate Drive, Papillion, Nebraska.

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[FR Doc. 05-13929 Filed 7-14-05; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA-2005-21826]

RIN 2127-AJ55

### Federal Motor Vehicle Safety Standards; Platform Lifts for Motor Vehicles, Platform Lift Installations in Motor Vehicles

**AGENCY:** National Highway Traffic  
Safety Administration (NHTSA),  
Department of Transportation (DOT).

**ACTION:** Denial of petitions for  
reconsideration.

**SUMMARY:** This document responds to petitions for reconsideration of the October 1, 2004 final rule (69 FR 58843), which was in response to the initial petitions for reconsideration of the December 27, 2002 final rule (67 FR 79416) that established two new Federal motor vehicle safety standards (FMVSSs); FMVSS No. 403, *Platform lift systems for motor vehicles*, and FMVSS No. 404, *Platform lift installations in motor vehicles*. The purpose of these standards is to prevent injuries and fatalities during lift operation. In the October 2004 final rule the agency clarified the applicability of the standards as well as amended the definitions of certain operational functions, the requirements for lift lighting on public lifts, the interlock requirements, compliance procedures for lifts that manually deploy/stow, the environmental resistance requirements, the edge guard requirements, the wheelchair test device specifications, and the location requirements for public lift controls. The agency received petitions for reconsideration of the October 2004 final rule from a school bus manufacturer, a lift interlock/control manufacturer, a vehicle association, a school bus technical council and a dealer's association. The agency is denying the petitioners' request to require interlocks be designed to prevent "malicious" release and to place responsibility for lighting

requirements under FMVSS No. 403. The request to amend the lighting intensity requirements under FMVSS No. 404 will be addressed in a separate notice as a petition for rulemaking.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may contact William Evans, Office of Crash Avoidance Safety Standards at (202) 366-2272. For legal issues, you may contact Christopher Calamita, Office of Chief Counsel, at (202) 366-2992. You may send mail to these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

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##### II. Petitions for Reconsideration

- A. Change the Wording in S6.10.2.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 403 to State That the Design of the Interlock Should be Such That it Discourages "Malicious" Release Rather Than "Accidental" Release
- B. Move the Platform Lighting Requirements for Public Use Lifts From FMVSS No. 404 Where it is the Responsibility of Vehicle Manufacturers Back to FMVSS No. 403 Where it Would be the Responsibility of Lift Manufacturers
- C. Delay the Compliance Date of the Platform Lighting Requirements in FMVSS No. 404
- D. Clarify FMVSS Nos. 403 and 404 Relative to Modifiers Installing Used Non-403 Compliant Lifts Manufactured Before the FMVSS No. 403 Compliance Date in Vehicles Manufactured After the FMVSS No. 404 Compliance Date
- E. Reduce Platform Illumination Requirements of FMVSS No. 404

##### I. Background

##### December 27, 2002 Final Rule

On December 27, 2002, the agency published in the **Federal Register** a final rule establishing FMVSS No. 403, *Platform lift systems for motor vehicles*, and FMVSS No. 404, *Platform lift installations in motor vehicles* (67 FR 79416). These standards provide practicable performance-based requirements and compliance procedures for the regulations promulgated by the DOT under the Americans with Disabilities Act (ADA)<sup>1</sup>. FMVSS Nos. 403 and 404 provide that lift systems and vehicles manufactured with lift systems must comply with objective safety requirements.

FMVSS No. 403 establishes requirements for platform lifts that are

designed to carry passengers who rely on wheelchairs, scooters, canes, and other mobility aids into and out of motor vehicles. The standard requires that lifts meet requirements such as minimum platform dimensions, maximum platform velocity/acceleration/noise level, maximum size limits for platform protrusions and gaps, maximum platform deflection, environmental resistance (corrosion resistance), platform slip resistance, etc. The standard also includes requirements for handrails, a threshold-warning signal, retaining barriers, platform markings, platform lighting, fatigue endurance, strength, controls and interlocks. Performance tests are specified for most requirements.

FMVSS No. 404 establishes requirements for vehicles that as manufactured, are equipped with platform lifts. The lifts must be certified as meeting FMVSS No. 403, must be installed according to the lift manufacturer's instructions and must continue to meet all of the applicable requirements of FMVSS No. 403 after installation. The standard also requires that specific information is made available to lift users.

Recognizing the different usage patterns of platform lifts used in public transit versus those of platform lifts for individual use, the agency established separate requirements for public use lifts and private use lifts. FMVSS No. 404, S4.1.1 requires that lift-equipped buses, school buses and multipurpose passenger vehicles other than motor homes with a gross vehicle weight rating (GVWR) greater than 4,536 kg (10,000 lb) must be equipped with a lift certified to all applicable public use lift requirements set forth in FMVSS No. 403. Since lifts on these vehicles will generally be subject to more stress and cyclic loading and will be used by more and varied populations, additional requirements relative to platform size, controls, handrails, platform lighting, platform markings, noise level, etc. are appropriate.

In order to provide manufacturers sufficient time to meet any new requirements established in FMVSS Nos. 403 and 404, the agency provided a two-year lead-time, which scheduled the standards to become effective on December 27, 2004.

##### *Petitions for Reconsideration to the December 27, 2002 Final Rule*

In response to the December 27, 2002 final rule, the agency received six petitions for reconsideration from platform lift manufacturers, vehicle manufacturers, and a transportation safety research organization. The agency

<sup>1</sup> Pub. L. 101-336, 42 U.S.C. 12101, *et seq.* The ADA directed the DOT to issue regulations to implement the transportation provisions that pertain to vehicles used by the public.