

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Lubbock .....	City of Lubbock .....	Apr. 18, 1996, Apr. 25, 1996, <i>Lubbock Avalanche Journal</i> .	The Honorable David R. Langston, Mayor, City of Lubbock, P.O. Box 2000, Lubbock, Texas 79457.	Apr. 1, 1996 .....	480452
Montgomery .....	Unincorporated areas	Apr. 12, 1996, Apr. 19, 1996. <i>Conroe Courier</i> .	The Honorable Alan B. Sadler, Montgomery County Judge, 301 North Thompson, Suite 210, Conroe, Texas 77301.	Mar. 27, 1996 .....	480483
Collin .....	City of Plano .....	Apr. 17, 1996, Apr. 24, 1996, <i>Plano Star Courier</i> .	The Honorable James N. Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086-0358.	Mar. 27, 1996 .....	480140

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

Dated: June 25, 1996.

Richard W. Krimm,

*Acting Associate Director for Mitigation.*

[FR Doc. 96-16700 Filed 6-28-96; 8:45 am]

BILLING CODE 6718-04-P

#### 44 CFR Part 67

#### Final Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations 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).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations 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:** Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation

Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2756.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the Federal Register.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA 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 base flood elevations and modified base flood elevations 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 Acting Associate Director for Mitigation certifies that this rule is

exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations 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. 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	#Depth in feet above ground. *Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
<b>ARIZONA</b>					
<b>Camp Verde (town), Yavapai County (FEMA Docket No. 7166)</b>		Approximately 2,350 feet downstream of U.S. Route 89 .....		At confluence with Green Wash .....	*4,394
<i>Verde River:</i>		Approximately 1,300 feet downstream of U.S. Route 89 .....	*4,463	At U.S. Highway 89 .....	*4,404
Just downstream of State Route 260 .....	*3,074	Approximately 300 feet downstream of U.S. Route 89 .....	*4,468	Approximately 0.88 mile upstream of confluence with Green Wash .....	*4,434
Just upstream of State Route 260 .....	*3,075	Approximately 600 feet upstream of U.S. Route 89 .....	*4,473	<i>Telephone Tank Wash Breakout:</i>	
Just upstream of Montezuma Castle Highway .....	*3,094	Approximately 1,250 feet upstream of U.S. Route 89 .....	*4,478	At confluence with Green Wash .....	*4,388
Approximately 1,000 feet upstream of Interstate Highway 17 .....	*3,107	Approximately 2,250 feet upstream of U.S. Route 89 .....	*4,483	At confluence of Robert Wash .....	*4,394
Approximately 2.62 miles upstream of Interstate Highway 17 .....	*3,132	Approximately 3,100 feet upstream of U.S. Route 89 .....	*4,488	At divergence from Telephone Tank Wash .....	*4,430
<i>Cherry Creek:</i>		Approximately 3,800 feet upstream of U.S. Route 89 .....	*4,493	<i>J.W. Draw:</i>	
At confluence with Verde River .....	*3,164	Approximately 4,350 feet upstream of U.S. Route 89 .....	*4,498	At confluence with Green Wash .....	*4,394
At State Route 279 .....	*3,252	Approximately 4,900 feet upstream of U.S. Route 89 .....	*4,503	At Bayberry Drive .....	*4,412
At corporate limits (approximately 3,400 feet upstream of State Route 279) .....	*3,314	Approximately 5,600 feet upstream of U.S. Route 89 .....	*4,508	At Naples Street .....	*4,462
<i>Lucky Canyon Wash:</i>		Approximately 6,400 feet upstream of U.S. Route 89 .....	*4,513	Approximately 0.41 mile upstream of Naples Street .....	*4,488
At confluence with Verde River .....	*3,060	At corporate limits (upstream of City of Prescott) .....	*4,519	<i>Green Wash:</i>	
At Salt Mine Road .....	*3,100	At Idylwild Drive .....	*5,478	At confluence with Big Chino Wash .....	*4,364
Approximately 930 feet upstream of Salt Mine Road .....	*3,126	At Pine Drive .....	*5,517	At Big Chino Road .....	*4,388
<i>Copper Canyon Wash:</i>		Approximately 2,500 feet upstream of Pine Drive (at limit of detailed study) .....	*5,612	Just upstream of Grand Canyon Road .....	*4,398
At confluence with Verde River .....	*3,063	<i>Cherry Creek:</i>		At Apsen Drive .....	*4,460
At Salt Mine Road .....	*3,142	At corporate limits .....	*3,314	Approximately 0.36 mile upstream of Enid Drive .....	*4,504
Approximately 980 feet upstream of Salt Mine Road .....	*3,164	Approximately 200 feet upstream of corporate limits (at limit of detailed study) .....	*3,318	<i>Dry Well Wash:</i>	
<b>Maps are available for inspection at Town Hall, 473 South Main Street, Camp Verde, Arizona.</b>		<i>Texas Gulch Main Stem:</i>		At confluence with Clayton Canyon Wash .....	*4,420
<b>Yavapai County (unincorporated areas) (FEMA Docket No. 7166)</b>		At confluence with Aqua Fria River .....	*4,490	At Patricia Road .....	*4,502
<i>Verde River:</i>		At Quarter Horse Lane .....	*4,536	At Barbara Road .....	*4,598
Just upstream of State Route 260 .....	*3,074	At confluence of Texas Gulch West Branch .....	*4,568	Approximately 500 feet upstream of Barbara Road .....	*4,608
Just upstream of Montezuma Castle Highway .....	*3,094	<i>Texas Gulch West Branch:</i>		<i>Clayton Canyon Wash:</i>	
Just upstream of Interstate Highway 17 .....	*3,107	At confluence with Texas Gulch Main Stem .....	*4,568	Approximately 0.08 mile upstream of confluence with Big Chino Wash .....	*4,376
Just downstream of Middle Verde Indian Reservation .....	*3,132	Approximately 0.5 mile upstream of confluence with Texas Gulch Main Stem .....	*4,600	Just downstream of Clayton Canyon Dam .....	*4,480
<i>Chino Valley Stream—East:</i>		Approximately 1.20 miles upstream of confluence with Texas Gulch Main Stem .....	*4,660	Just upstream of Clayton Canyon Dam .....	*4,500
At confluence with Chino Valley Stream .....	*4,732	Approximately 1.58 miles upstream of confluence with Texas Gulch Main Stem .....	*4,700	At Barbara Road .....	*4,520
At Center Street .....	*4,760	<i>Zalesky Wash Main Stem:</i>		Approximately 320 feet upstream of Barbara Road .....	*4,525
Approximately 1.55 miles upstream of confluence with Chino Valley Stream .....	*4,796	Approximately 0.04 mile upstream of confluence with Verde River .....	*3,259	<i>Timon Wash:</i>	
Approximately 1.79 miles upstream of confluence with Chino Valley Stream .....	*4,808	Approximately 0.86 mile upstream of confluence with Verde River .....	*3,293	Approximately 0.50 mile upstream of confluence with Big Chino Wash .....	*4,395
Approximately 3.69 miles upstream of confluence with Chino Valley Stream .....	*4,906	<i>Robert Wash:</i>		At Ahonen Road .....	*4,438
<i>Miller Creek:</i>		At U.S. Route 89 .....	*4,394	At Barbara Road .....	*4,524
Approximately 3,400 feet downstream of U.S. Route 89 .....	*4,458	Approximate 0.25 mile upstream of U.S. Route 89 .....	*4,398	Approximately 320 feet upstream of Barbara Road .....	*4,528
		<i>Telephone Tank Wash:</i>		<i>Model Creek:</i>	
				Just upstream of U.S. Route 89 .....	*4,460
				Approximately 1,000 feet upstream of U.S. Route 89 .....	*4,461
				Approximately 2,000 feet upstream of U.S. Route 89 .....	*4,464
				Approximately 3,000 feet upstream of U.S. Route 89 .....	*4,467
				Approximately 4,000 feet upstream of U.S. Route 89 .....	*4,473
				Approximately 4,400 feet upstream of U.S. Route 89 .....	*4,476
				<i>West Fork Miller Creek:</i>	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 500 feet upstream of confluence with Model Creek .....	*4,460	Approximately 1,000 feet downstream of Interstate 25	*4,902	Approximately 240 feet downstream of 94th Street .....	*5,120
Approximately 1,500 feet upstream of confluence with Model Creek .....	*4,463	Approximately 3,000 feet upstream of Interstate 25 .....	*4,906	Approximately 1,050 feet upstream of 94th Street (limit of detailed study) .....	*5,140
Approximately 2,500 feet upstream of confluence with Model Creek .....	*4,465	At confluence with South Diversion Channel .....	*4,924	Shallow flooding between Unser Boulevard and Abeyta Road .....	#1
Approximately 3,500 feet upstream of confluence with Model Creek .....	*4,470	<i>Rio Grande East Overbank:</i>		<i>Ponding Area 18:</i>	*5,009
Approximately 4,500 feet upstream of confluence with Model Creek .....	*4,474	Approximately 1,300 feet downstream of Interstate 25	*4,900	<i>Ponding Area:</i>	
Approximately 4,800 feet upstream of confluence with Model Creek .....	*4,475	Just downstream of Interstate 25 .....	*4,903	Along Trujillo Road approximately 500 feet east of Bataan Drive .....	*5,009
<b>Maps are available for inspection</b> at the Yavapai County Flood Control District, 500 South Marina Street, Prescott, Arizona.		Approximately 3,500 feet upstream of Interstate 25 .....	*4,905	<i>Ponding Area:</i>	
		Approximately 20,400 feet upstream of Interstate 25 .....	*4,922	Along Dennison Road approximately 500 feet east of Bataan Drive .....	*5,009
		<i>Arroyo A-B:</i>		<i>Ponding Area:</i>	
		Approximately 150 feet north of Amalia Road .....	*4,970	North of Eucariz Avenue approximately 500 feet east of Bataan Drive .....	*5,008
		Approximately 550 feet north of Amalia Road .....	*4,980	<i>Ponding Area:</i>	
		Just upstream of Sage Road ...	*4,995	Along Yerba Road south of Eucariz Avenue .....	*5,002
		Ponding area west of Arenal Canal .....	*4,951	<i>Ponding Area:</i>	
		Ponding area northwest of intersection of Sage Road and Coors Boulevard .....	*5,001	Between Coors Boulevard and Corona Drive and between Redlands Road and Pheasant Avenue .....	*5,100
		Ponding area north of Tower Road and west of Coors Boulevard .....	*5,029	<b>Maps are available for inspection</b> at the Bernalillo County Planning Office, One Civic Plaza Northwest, Fifth Floor, Room 5025, Albuquerque, New Mexico.	
		<i>Arroyo A-C:</i>		<b>Maps are available for inspection</b> at the City of Albuquerque Planning Department, One Civic Plaza Northwest, Albuquerque, New Mexico.	
		Approximately 1,140 feet downstream of Gonzales Road .....	*5,006		
	*268	Just upstream of Gonzales Road .....	*5,008		
	*271	Approximately 630 feet upstream of intersection of Forsythe Road and Corregidor Place .....	*5,012		
	*279	Ponding area just upstream of Old Coors Road .....	*5,012		
<i>East Sand Slough:</i>		<i>Arroyo B-A:</i>			
Just upstream of Gilmore Ranch Road extended, at corporate limits .....	*267	Approximately 100 feet upstream of Unser Boulevard	*5,087	<b>WYOMING</b>	
Approximately 150 feet downstream of Antelope Boulevard .....	*269	Just upstream of 86th Street ...	*5,115	<b>Laramie (city), Albany County (FEMA Docket No. 7170)</b>	
Approximately 550 feet upstream of Antelope Boulevard .....	*271	Approximately 1,000 feet upstream of 86th Street (limit of detailed study) .....	*5,133	<i>Laramie River:</i>	
<i>Brewery Creek Tributary:</i>		Ponding area west of 94th Street and south of Central Avenue .....	*5,169	Approximately 2,260 feet downstream of Curtis Street	*7,129
Approximately 750 feet downstream of Monroe Avenue ...	*274	<i>Arroyo B-B:</i>		Just upstream of Curtis Street	*7,132
Approximately 130 feet downstream of Monroe Avenue ...	*280	Approximately 650 feet downstream of Unser Boulevard	*5,081	Just downstream of new Wyoming Highway .....	*7,137
Just upstream of Monroe Avenue .....	*291	Just upstream of 86th Street ...	*5,105	Just upstream of Interstate Highway 80 .....	*7,141
<b>Maps are available for inspection</b> at the Community Development Department, City of Red Bluff, City Hall, 555 Washington Street, Red Bluff, California.		Approximately 400 feet upstream of 90th Street .....	*5,135	Approximately 1,000 feet upstream of Interstate Highway 80 .....	*7,143
		Approximately 1,900 feet upstream of 90th Street (limit of detailed study) .....	*5,171	<b>Maps are available for inspection</b> at the City of Laramie, City Engineer's Office, City Hall, 406 Iverson Street, Laramie, Wyoming.	
		Shallow flooding between Stinson Street and 300 feet upstream of 75th Street .....	*5,080		
		<i>Arroyo B-C:</i>			
		Just upstream of Unser Boulevard .....	*5,079		
		Approximately 80 feet downstream of 86th Street .....	*5,093		
				(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")	
<b>CALIFORNIA</b>					
<b>Red Bluff (city), Tehama County (FEMA Docket No. 7170)</b>					
<i>Reeds Creek:</i>					
Approximately 430 feet upstream of Southern Pacific Railroad .....					
Just downstream of South Jackson Street .....					
Approximately 180 feet downstream of western corporate limits .....					
<i>East Sand Slough:</i>					
Just upstream of Gilmore Ranch Road extended, at corporate limits .....					
Approximately 150 feet downstream of Antelope Boulevard .....					
Approximately 550 feet upstream of Antelope Boulevard .....					
<i>Brewery Creek Tributary:</i>					
Approximately 750 feet downstream of Monroe Avenue ...					
Approximately 130 feet downstream of Monroe Avenue ...					
Just upstream of Monroe Avenue .....					
<b>Maps are available for inspection</b> at the Community Development Department, City of Red Bluff, City Hall, 555 Washington Street, Red Bluff, California.					
<b>NEW MEXICO</b>					
<b>Bernalillo County and Incorporated Areas (FEMA Docket No. 7166)</b>					
<i>Rio Grande:</i>					

Dated: June 25, 1996.  
Richard W. Krimm,  
*Acting Associate Director for Mitigation.*  
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BILLING CODE 6718-04-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 20 and 24

[WT Docket No. 96-59; GN Docket No. 90-314; FCC 96-278]

### Broadband Personal Communications Services

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This Report and Order amends the Commission's broadband Personal Communications Services ("PCS") rules. The Commission concludes that the present record is insufficient to support the race-based F block rules under the strict scrutiny standard of judicial review required by the Supreme Court's decision in *Adarand Constructors, Inc. v. Peña*, or to support the gender-based rules under the intermediate scrutiny standard that currently applies to those rules. Taking account of the need to award the remaining broadband PCS licenses expeditiously and to promote the rapid deployment of new services to the public, as well as the statutory objective of disseminating licenses among a wide variety of applicants, the Commission makes the F block rules race- and gender-neutral to avoid the delay that would likely result from legal challenges to the special provisions for minority- and women-owned businesses. The Commission also amends its D, E, and F block rules and broadband PCS rules generally to streamline procedures, reduce administrative burdens, and minimize the possibility of insincere bidding and bidder default. Finally, the Commission, in response to *Cincinnati Bell Telephone Co. v. FCC*, eliminates the cellular/PCS cross-ownership rule and the PCS spectrum cap in favor of the 45 MHz cap on Commercial Mobile Radio Services spectrum.

**EFFECTIVE DATE:** July 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mark Bollinger, Wireless Telecommunications Bureau, (202) 418-0660.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order in WT Docket No. 96-59; GN Docket No. 90-314; FCC 96-278,

adopted June 21, 1996, and released June 24, 1996. The complete text is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, DC. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, N.W., Washington, DC 20037.

### Synopsis of the Report and Order

#### I. Introduction

1. In this Report and Order, the Commission modifies the competitive bidding and ownership rules for broadband Personal Communications Services ("PCS"). Many of the rule modifications concern the treatment of "designated entities," *i.e.*, small businesses, rural telephone companies, and businesses owned by members of minority groups and women, under the broadband PCS F block rules. The Commission also amends the D, E, and F block rules and other broadband PCS rules in order to encourage sincere bidding, streamline the auction process, and lessen administrative burdens. In addition, in response to the remand from the U.S. Court of Appeals for the Sixth Circuit in *Cincinnati Bell Telephone Co. v. FCC*, 69 F.3d 752 (6th Cir. 1995), the Commission modifies the rules governing cellular licensees' ownership of broadband PCS licenses in all frequency blocks.

#### II. Rules Affecting Designated Entities

##### A. Meeting the *Adarand* Standard

2. In *Adarand Constructors, Inc. v. Peña*, 115 S. Ct. 2097 (1995), the Supreme Court held that all racial classifications, whether imposed at the federal, state or local government level, must be analyzed by a reviewing court under strict scrutiny, which requires such classifications to be narrowly tailored to further a compelling governmental interest. An intermediate scrutiny standard of review (under which a provision is constitutional if it serves an important governmental objective and is substantially related to achievement of that objective) applies to gender-based measures. Having evaluated the record before it, the Commission concludes that this record is insufficient to support the race- and gender-based F block provisions and revises the F block rules in this Report and Order to make them race- and gender-neutral. Overall, the commenters agree that this approach will best serve the goal of rapidly conducting the F block auction with the least risk of judicial delay. Moreover, this type of

approach was upheld by the D.C. Circuit Court of Appeals, which held in *Omnipoint v. FCC*, 78 F.3d 620 (D.C. Cir. 1996), that the Commission acted reasonably in concluding that, in light of the additional time it would take to develop a record to support the race- and gender-based provisions of the C block rules, it should revise these rules by providing the most favorable terms to all small businesses. The Commission concludes that making the F block rules race- and gender-neutral will serve the public interest by enabling it to auction the remaining broadband PCS licenses as expeditiously as possible. Because many minority- and women-owned entities are small businesses and will therefore qualify for the same special provisions that would have applied to them under the previous rules, the Commission also believes that the amended rules will continue to fulfill the mandate under Section 309(j) of the Communications Act, as amended, 47 U.S.C. 309(j)(3), to provide opportunities for minority- and women-owned businesses to become providers of spectrum-based services.

#### 1. Control Group Equity Structures

3. The F block auction is limited to applicants that, together with their affiliates and persons or entities that hold interests in them, have gross revenues of less than \$125 million in each of the last two years and total assets of less than \$500 million. As part of its decision to make the F block rules race- and gender-neutral, the Commission concludes that the 50.1/49.9 percent equity option, previously available to minority- and women-owned applicants only, should be available to all small businesses and entrepreneurs. Applicants may use this control group equity structure to establish eligibility to participate in the F block auction. It requires the control group to own at least 50.1 percent of the applicant's total equity; of that 50.1 percent equity, at least 30 percent must be held by qualifying investors. If these and certain other requirements are met, the remaining 49.9 percent of the applicant's equity may be held by non-controlling investors, and the gross revenues and total assets of any such investor will not be attributed.

4. The Commission adopts this rule modification because it reduces the likelihood of legal challenges to the F block rules and enhances the opportunities for a wide variety of applicants to obtain licenses and rapidly deploy broadband PCS; and because it believes that making the same equity structures available to both C and F block applicants is necessary so that C