

Source of flooding and location of referenced elevation	*Elevation in feet (NGVD)		Communities affected
	Existing	Modified	
<b>Unincorporated Areas of Bexar County, Texas:</b>			
Maps are available for inspection at the Bexar County Public Works Department, 233 North Pecos, Suite 420, San Antonio, Texas. Send comments to The Honorable Nelson W. Wolff, Judge, Bexar County, 100 Dolorosa, Suite 108, San Antonio, Texas 78205.			
<b>City of Kirby, Bexar County, Texas:</b>			
Maps are available for inspection at 112 Bauman Street, Kirby, Texas. Send comments to The Honorable Ray Martin, Mayor, City of Kirby, 112 Bauman Street, Kirby, Texas 78219.			
<b>City of San Antonio, Bexar County, Texas:</b>			
Maps are available for inspection at the Municipal Plaza, 114 West Commerce, 7th Floor, San Antonio, Texas. Send comments to The Honorable Ed Garza, Mayor, City of San Antonio, City Hall, Office of the Mayor, 100 Military Plaza, San Antonio, Texas 78205.			
East Fork to Soap Creek:			
At the confluence with Soap Creek .....	None	*593	Ellis County (Unincorporated Areas) City of Midlothian
At Weatherford Road .....	None	*616	
Newton Branch:			
At the confluence with Soap Creek .....	None	*546	Ellis County (Unincorporated Areas) City of Midlothian
At NRCS Dam No. 10 (Mountain Creek Watershed) .....	None	*564	
Plains Creek:			
At the confluence with Newton Branch .....	None	*550	Ellis County (Unincorporated Areas)
Approximately 4,900 feet upstream of Old Fort Worth Road .....	None	*574	
Soap Creek:			
At approximately 300 feet upstream of the confluence with Grassy Creek.	None	*538	Ellis County (Unincorporated Areas) City of Midlothian
Approximately 1,900 feet upstream of the confluence of East Fork to Soap Creek.	None	*598	
Tributary No. 6 to Soap Creek:			
At the confluence with Soap Creek .....	None	*570	Ellis County (Unincorporated Areas)
Approximately 2,600 feet upstream of the confluence with Soap Creek	None	*574	
West Fork to Soap Creek:			
At the confluence with Soap Creek .....	None	*581	Ellis County (Unincorporated Areas)
Approximately 2,500 feet upstream of Ray White Road .....	None	*601	
Lake Joe Pool:			
Entire shoreline .....	None	*538	Ellis County (Unincorporated Areas)

**Unincorporated Areas of Ellis County, Texas:**

Maps are available for inspection at the Ellis County Courthouse, 101 West Main Street, Waxachachie, Texas.

Send comments to the Honorable Chad Adams, Judge, Ellis County, 101 West Main Street, Waxachachie, Texas 75165.

**City of Midlothian, Ellis County, Texas:**

Maps are available for inspection at City Hall, 104 West Avenue East, Midlothian, Texas.

Send comments to the Honorable David K. Setzer, Mayor, City of Midlothian, 104 West Avenue East, Midlothian, Texas 76065.

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

Dated: April 13, 2005.

**David I. Maurstad,**

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

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**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket No. FEMA-P-7683]

**Proposed Flood Elevation Determinations**

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

Preparedness and Response Directorate, 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, 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 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.

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. 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 maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

**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 12612, Federalism**

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

**Executive Order 12778, Civil Justice Reform**

This proposed 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 record keeping 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	# Depth in feet above ground ♦ Elevation in Feet ♦ (NAVD)	
				Existing	Modified
NM .....	Jal (City) Lea County	Flow Path 1 .....	Approximately 2,900 feet downstream of Whitworth Drive. Approximately 1,250 feet upstream of East Kansas Avenue.	None	♦3,000
		Flow Path 2 .....	At the confluence with Flow Path 1 .....	None	♦3,071
			Approximately 400 feet upstream of Ocho Road.	None	♦3,054
			None	None	♦3,082
		Flow Path 3 .....	At the confluence with Flow Path 1 .....	None	♦3,051
			Approximately 80 feet upstream of West Kansas Avenue.	None	♦3,087
	Flow Path 4 .....	Approximately 200 feet downstream of West Nevada Avenue.	None	♦3,025	
		Approximately 225 feet upstream of West Wyoming Avenue.	None	♦3,080	
	Flow Path 5 .....	Approximately 200 feet downstream of West Minnesota Avenue.	None	♦3,019	
		Approximately 175 feet downstream of West Colorado Avenue.	None	♦3,080	
	Flow Path 6 .....	Approximately 1,775 feet upstream of West Minnesota Avenue.	None	♦3,007	
		Approximately 1,350 feet downstream of West Missouri Avenue.	None	♦3,046	

Maps are available for inspection at 523 Main Street, Jal, New Mexico.

Send comments to The Honorable Claydean Claiborne, Mayor, City of Jal, P. O. Drawer, 340, Jal, New Mexico 88252.

State	City/town/county	Source of flooding	Location	# Depth in feet above ground *Elevation in Feet *(NAVD)	
				Existing	Modified
TX .....	El Paso (City) El Paso County.	Flow Path No. 28 Mesa Drain and Interceptor.	Just upstream of Southern Pacific Railroad	*3,668	*3,665
			Approximately 2,030 feet upstream of Bucher Road.	None	*3,693

State	City/town/county	Source of flooding	Location	# Depth in feet above ground *Elevation in Feet *(NAVD)	
				Existing	Modified
		Flow Path No. 29 .....	Approximately 200 feet downstream of Del Monte Street.	*3,737	3,736
			Approximately 250 feet upstream of Cimarron Street.	*3,671	3,769
		Flow Path No. 30 .....	At the confluence of Flow Path No. 28 Mesa Drain and Interceptor.	*3,681	3,678
			Approximately 380 feet upstream of North Carolina Drive.	*3,727	*3,721
		Flow Path No. 32 .....	At the confluence with Flow Path No. 28 Mesa Drain and Interceptor.	*3,671	*3,668
			Approximately 35 feet downstream of Escobar Avenue.	*3,713	*3,714
		Flow Path No. 33 Middle Drain.	Just upstream of confluence with lowenstein Lateral.	*3,667	*3,666
			Approximately 85 feet downstream of North Zarogosa Road.	*3,667	*3,668

Maps are available for inspection at 2 Civic Center Plaza, El Paso, Texas.

Send comments to The Honorable Joe Wardy, Mayor, City of El Paso, 2 Civic Center Plaza, 10th Floor, El Paso, Texas 79901.

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

Dated: April 13, 2005.

**David I. Maurstad,**

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

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Part 36

[FAR Case 2004-023]

#### **Federal Acquisition Regulation; Application of the Brooks Act to Mapping Services; Analysis of Comments**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice; Analysis of Comments.

**SUMMARY:** The Defense Acquisition Regulations Council and the Civilian Agency Acquisition Council (the Councils) have reviewed the public comments received in response to the request for comments on the application of the Brooks Architect-Engineers Act to mapping services. The Councils have determined that no change to the FAR

is necessary. In the interest of transparency, this notice sets forth the rationale supporting this determination.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cecelia Davis, at (202) 219-0202. Please cite FAR case 2004-023.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On October 27, 1972, the Brooks Architect-Engineers Act (Pub. L. 92-582) (40 U.S.C. 541 *et seq.*, recodified now at 40 U.S.C. 1101 *et seq.*) required that all requirements for Architect-Engineers (A-E) services be publicly announced, and be negotiated on the basis of demonstrated competence and qualifications for the type of professional services required, at fair and reasonable prices. The Act established a specific qualification based procurement process to be used in procurements for architect-engineer services, which the Act defined as "those professional services of an architectural or engineering nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform."

Since enactment, Congress has expanded the definition of A-E services (Pub. L. 100-656, Pub. L. 100-679, Pub. L. 101-574). Of specific note here, Section 403 of Pub. L. 101-574 (SBA Reauthorization and Amendments Act of 1990) required that, pursuant to Section 742 of Public Law 100-656, modifications to FAR Part 36 shall specify that "the definition of architectural and engineering services includes surveying and mapping services to which the selection

procedures of Subpart FAR 36.6 of the Federal Acquisition Regulation apply." Some interpret this to mean that all mapping services are subject to FAR Subpart 36.6. Others interpret the phrase "to which the selection procedures of Subpart 36.6 of the Federal Acquisition Regulation apply" as a limitation modifying "mapping services." On October 10, 1991, then OFFP Administrator issued a letter to the FAR Committee stating that "the determining factor in deciding whether mapping services should be procured through the A-E process or through normal competitive procedures is whether mapping services are associated with 'traditionally understood or accepted architectural or engineering activities.'"

The FAR states concerning professional surveying and mapping services of an architectural or engineering nature:

Surveying is considered to be an architectural and engineering service and shall be procured pursuant to section 36.601 from registered surveyors or architects and engineers. Mapping associated with the research, planning, development, design, construction, or alteration of real property is considered to be an architectural and engineering service and is to be procured pursuant to section 36.601. However, mapping services that are not connected to traditionally understood or accepted architectural and engineering activities, are not incidental to such architectural and engineering activities or have not in themselves traditionally been considered architectural and engineering services shall be procured pursuant to provisions in Parts 13, 14, and 15. FAR 36.601(a)(4).

During the years since enactment of the Brooks Act in 1972, the mapping