

List of Subjects in 43 CFR Part 2

Freedom of information.

Kristen J. Sarri,

Principal Deputy Assistant Secretary for Policy, Management, and Budget.

For the reasons stated in the preamble, the Department of the Interior proposes to amend part 2 of title 43 of the Code of Federal Regulations as follows:

PART 2—FREEDOM OF INFORMATION ACT; RECORDS AND TESTIMONY

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 553; 31 U.S.C. 3717; 43 U.S.C. 1460, 1461.

Subpart B—How to Make a Request

■ 2. In § 2.4, revise paragraph (e) to read as follows:

§ 2.4 Does where you send your request affect its processing?

* * * * *

(e) If your request is received by a bureau that believes it is not the appropriate bureau to process your request, the bureau that received your request will attempt to contact you (if possible, via telephone or email) to confirm that you deliberately sent your request to that bureau for processing. If you do not confirm this, the bureau will deem your request misdirected and route the misdirected request to the appropriate bureau to respond under the basic time limit outlined in § 2.17 of this part.

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Subpart D—Timing of Responses to Requests**§ 2.15 [Amended]**

■ 3. In § 2.15, add paragraph (g) to read as follows:

§ 2.15 What is multitrack processing and how does it affect your request?

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(g) You may track the status of your request, including its estimated processing completion date, at <https://foia.doi.gov/requeststatus/>.

§ 2.19 [Amended]

■ 4. In § 2.19(b)(2), add the words “, and notify you of your right to seek dispute resolution from the Office of Government Information Services (OGIS)” after the words “you and the bureau”.

Subpart E—Responses to Requests**§ 2.21 [Amended]**

■ 5. In § 2.21(a), the second sentence, remove the words “Office of Government Information Services (OGIS)” and add in their place “the OGIS”.

§ 2.24 [Amended]

■ 6. Amend § 2.24 by:

a. In paragraph (b)(3), adding the words “, along with a statement that the bureau reasonably foresees that disclosure would harm an interest protected by the applied exemption(s) or disclosure is prohibited by law” after the words “or in part”; and

b. In paragraph (b)(4), adding the word “including” after the word “unless” and adding the words “and the bureau explains this harm to you” after the words “withhold the records”.

Subpart G—Fees**§ 2.37 [Amended]**

■ 7. In § 2.37, revise paragraph (f) to read as follows:

§ 2.37 What general principles govern fees?

* * * * *

(f) If the bureau does not comply with any time limit in the FOIA:

(1) Except as provided in paragraph (f)(2) of this section, the bureau cannot assess any search fees (or, if you are in the fee category of a representative of the news media or an educational and noncommercial scientific institution, duplication fees).

(2)(i) If the bureau has determined that unusual circumstances apply (as the term is defined in § 2.70 of this part) and the bureau provided you a timely written notice to extend the basic time limit in accordance with § 2.19 of this part, the noncompliance is excused for an additional 10 calendar days. If the bureau fails to comply with the extended time limit, the bureau may not assess any search fees (or, if you are in the fee category of a representative of the news media or an educational and noncommercial scientific institution, duplication fees).

(ii) If the bureau has determined that unusual circumstances apply and more than 5,000 pages are necessary to respond to the request, the noncompliance is excused if, in accordance with § 2.19 of this part, the bureau has provided you a timely written notice and has discussed with you via written mail, email, or telephone (or made not less than 3 good-faith attempts to do so) how you could effectively limit the scope of the request.

(iii) If a court has determined that exceptional circumstances exist (as that term is defined in § 2.70 of this part), the noncompliance is excused for the length of time provided by the court order.

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§ 2.39 [Amended]

■ 8. In § 2.39, remove the paragraph (a) designation and remove paragraph (b).

Subpart H—Administrative Appeals**§ 2.58 [Amended]**

■ 9. In § 2.58(a) and (b), remove the number “30” and add in its place the number “90”.

[FR Doc. 2016–22166 Filed 9–19–16; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Part 9**

[Docket ID: FEMA–2015–0006]

RIN 1660–AA85

Updates to Floodplain Management and Protection of Wetlands Regulations To Implement Executive Order 13690 and the Federal Flood Risk Management Standard

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; notice of data availability.

SUMMARY: The Federal Emergency Management Agency (FEMA) is issuing this Notice of Data Availability (NODA) in connection with the proposed rule titled, “Updates to Floodplain Management and Protection of Wetlands Regulations to Implement Executive Order 13690 and the Federal Flood Risk Management Standard” that was published on August 22, 2016. Through this NODA, FEMA is making available to the public, and soliciting comment on, a draft report, *2016 Evaluation of the Benefits of Freeboard for Public and Nonresidential Buildings in Coastal Areas*. The draft report has been added to the docket for the proposed rule.

DATES: Comments must be received no later than October 21, 2016. Late comments will not be accepted.

ADDRESSES: You may submit comments, identified by Docket ID: FEMA–2015–0006, by one of the following methods: *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail/Hand Delivery/Courier:
Regulatory Affairs Division, Office of
Chief Counsel, Federal Emergency
Management Agency, 8NE-1604, 500 C
Street SW., Washington, DC 20472-
3100.

To avoid duplication, please use only one of these methods. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. If you submit a comment, identify the agency name and the Docket ID for this rulemaking, indicate the specific section of the document to which each comment applies, and give the reason for each comment.

FOR FURTHER INFORMATION CONTACT:
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SUPPLEMENTARY INFORMATION: On August 22, 2016, at 81 FR 57402, the Federal Emergency Management Agency (FEMA) proposed to amend its regulations on "Floodplain Management and Protection of Wetlands" and proposed a supplementary policy that would further clarify how FEMA applies the Federal Flood Risk Management Standard. Through this Notice of Data Availability (NODA), FEMA is making available to the public, and soliciting comment on, a draft report, *2016 Evaluation of the Benefits of Freeboard for Public and Nonresidential Buildings in Coastal Areas* that became available after publication of the proposed rule.

As part of the rulemaking process, FEMA included in the docket a Regulatory Evaluation to estimate the potential costs and benefits of the proposed rule. The evaluation accompanying the proposed rule addressed costs associated with elevating and floodproofing FEMA Federally Funded Projects to specified freeboard levels. Cost and benefit estimates were made using the *2008 Supplement to the 2006 Evaluation of the National Flood Insurance Program's Building Standards* (2008 report), which evaluated the costs and benefits associated with elevating newly constructed residential structures, located in coastal areas.

While the 2008 report was the best available data at the time, it was limited in scope to single-family residential structures. The proposed rule primarily affects non-residential structures owned

by local government agencies and private non-profit organizations. The 2008 report is also limited to new construction projects. Most of the projects affected by the proposed rule would be retrofitted structures. The draft report includes data and analysis specific to some of the types of projects most likely to be affected by the proposed rule.

The purpose of this 2016 draft report, which is part of a broader effort related to FEMA's Hazard Mitigation Assistance Program, was to determine if increased freeboard requirements would result in sufficient reductions in damages to be considered cost-effective. The results of this analysis provide some insight into the potential costs and benefits associated with constructing nonresidential and public buildings with higher freeboard requirements. The draft report provides cost and benefit estimates for elevating new construction buildings, as well as the costs and benefits of dry floodproofing both new and existing structures. The Regulatory Evaluation for the proposed rule discussed the differences in potential costs and benefits associated with elevation and floodproofing of new construction and existing buildings. However, because of a lack of data available to FEMA at the time that FEMA published the Regulatory Evaluation, the Evaluation does not quantify these costs separately. Additionally, the draft report includes significant additional discussion of the effects of sea level rise on the benefit-cost ratios of freeboard elevation. FEMA notes for the public's awareness that similar to the 2008 report, the draft report is limited, as riverine areas were not included in the analysis. Moreover, the report is still in draft form and is not peer-reviewed. FEMA welcomes comments on these and other aspects of the draft report. In particular, FEMA requests comments on whether the draft report contains enough information on which the public can base a conclusion on its use to quantify benefits for the proposed rule. For example, the study describes its methodology, outlines its basic assumptions, and provides summary statistics and overall benefit-cost ratios, but it does not show the inputs used for many of its calculations and assumptions.

Because of the above-referenced differences between the 2008 report and the draft report, FEMA welcomes comment on whether it would be more appropriate to use the draft report to estimate the costs and benefits in a future regulatory evaluation of a final rule on this topic. FEMA seeks

comments from the public about all aspects of the applicability of this draft report to the rulemaking, including how the data in this draft report may be applied in estimating costs and benefits associated with elevating and floodproofing structures to the proposed freeboard levels in the final rule.

For example, data and analysis from the draft report could be used to estimate the costs and benefits associated with elevating and floodproofing FEMA Federally Funded projects involving nonresidential structures. The draft report includes data and analysis relevant to the following building types in coastal areas: elementary schools, hospitals, police stations, retail stores, and office buildings. The analysis suggests that for the above-referenced building types, evaluated costs could range from \$1.03 to \$16.29 per square foot, depending on the type of structure.

In addition, FEMA did not monetize the benefits of the freeboard value approach in the Regulatory Evaluation, but FEMA did provide the cost-benefit ratios that the 2008 study described for various freeboard levels. The draft report includes updated cost-benefit ratios that might more accurately depict the benefits of freeboard levels for different types of non-residential structures in coastal areas. FEMA specifically requests comments from the public about the potential applicability of these cost-benefit ratios and whether and how they should be incorporated into the Regulatory Evaluation of a final rule.

List of Subjects in 44 CFR Part 9

Flood plains and Reporting and recordkeeping requirements.

Authority: E.O. 11988 of May 24, 1977. 3 CFR, 1977 Comp., p. 117; E.O. 11990 of May 24 1977, 3 CFR, 1977 Comp. p. 121; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of March 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148 of July 20, 1979, 44 FR 43239, 3 CFR, 1979 Comp., p. 412, as amended.; E.O. 12127; E.O. 12148; 42 U.S.C. 5201.

Dated: September 14, 2016.

W. Craig Fugate,
*Administrator, Federal Emergency
Management Agency.*

[FR Doc. 2016-22496 Filed 9-19-16; 8:45 am]

BILLING CODE 9111-66-P