

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Bristol County, Massachusetts (All Jurisdictions)				
Buzzards Bay	Approximately 1,650 feet East of intersection of River Road and Redwing Lane.	+13	+24	Town of Dartmouth, City of New Bedford, Town of Fairhaven, Town of Westport.
	Approximately 875 feet South from end of Club House Drive.	+31	+24	

Dated: August 26, 2008.
Michael K. Buckley,
Deputy Assistant Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.
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DEPARTMENT OF HOMELAND SECURITY
Federal Emergency Management Agency

44 CFR Part 67
[Docket No. FEMA-B-7786]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.
ACTION: Proposed rule; correction.

SUMMARY: On June 20, 2008, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 73 FR 35114. The table provided here represents the flooding source, location

of referenced elevation, effective and modified elevation, and communities affected for Plymouth County, Massachusetts (All Jurisdictions). Specifically, it addresses flooding source "Atlantic Ocean."

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Chief, Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151 or (e-mail) bill.blanton@dhs.gov.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

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.

Correction

In the proposed rule published at 73 FR 35114, in the June 20, 2008 issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled "Plymouth County, Massachusetts and Incorporated Areas" addressed flooding source "Atlantic Ocean." That table contained inaccurate information as to the location of referenced elevation, effective and modified elevation in feet, or communities affected for these flooding sources. In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in lieu of that previously published.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Plymouth County, Massachusetts (All Jurisdictions)				
Atlantic Ocean	Approximately 150 feet south of intersection of Brant Beach Avenue and Ocean View Avenue.	+17	+19	Town of Hingham, Town of Hull, Town of Marion, Town of Mattapoisett and Town of Wareham.
	Approximately 210 feet southeast of intersection of Highland Avenue and Mount Pleasant Way.	+9	+33	

Dated: August 26, 2008.

Michael K. Buckley,

Deputy Assistant Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS-R6-ES-2008-0023; 1111 FY07 MO-B2]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the Bonneville Cutthroat Trout as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of a 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce our 12-month finding on a petition to list the Bonneville cutthroat trout (*Oncorhynchus clarkii utah*) as a threatened subspecies throughout its range in the United States, pursuant to the Endangered Species Act of 1973, as amended (Act). After a thorough review of all available scientific and commercial information, we find that listing the Bonneville cutthroat trout as either threatened or endangered is not warranted at this time. We ask the public to continue to submit to us any new information that becomes available concerning the status of or threats to the subspecies. This information will help us to monitor and encourage the conservation of the subspecies.

DATES: The finding in this document was made on September 9, 2008.

ADDRESSES: This finding is available on the Internet at <http://www.regulations.gov>. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Utah Ecological Services Office, 2369 West Orton Circle, Suite 50, West Valley City, Utah 84119; telephone (801) 975-3330. Please submit any new information, materials, comments, or questions concerning this finding to the above address or via electronic mail (e-mail) at paul_abate@fws.gov.

FOR FURTHER INFORMATION CONTACT:

Larry Crist, Field Supervisor, U.S. Fish and Wildlife Service, Utah Ecological Services Office (see **ADDRESSES** section). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the List of Endangered and Threatened Species that contains substantial scientific and commercial information that listing may be warranted, we make a finding within 12 months of the date of receipt of the petition on whether the petitioned action is: (a) Not warranted, (b) warranted, or (c) warranted but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are threatened or endangered, and expeditious progress is being made to add or remove qualified species from the List of Endangered and Threatened Species. Section 4(b)(3)(C) of the Act requires that a petition for which the requested action is found to be warranted but precluded be treated as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. Such 12-month findings must be published in the **Federal Register**.

Previous Federal Actions

On February 26, 1998, we received a petition, dated February 5, 1998, from the Biodiversity Legal Foundation requesting that the Service list the Bonneville cutthroat trout (*Oncorhynchus clarkii utah*) (BCT) as threatened in U.S. river and lake ecosystems where it continues to exist, and to designate its occupied habitat as critical habitat within a reasonable period of time following the listing. On December 8, 1998, we published a 90-day petition finding for the BCT in the **Federal Register** (63 FR 67640). We found that the petition presented substantial information indicating that the subspecies may be warranted for listing under the Act, and initiated a review of the subspecies' status within its historic range.

In the 1998 90-day finding, we solicited additional data, comments, and suggestions from the public, other governmental agencies, the scientific community, industry, and other interested parties concerning the status of the BCT throughout its range. The

comment period for submission of additional information ended on January 7, 1999, but was reopened (64 FR 2167) during January 13 through February 12, 1999. We published a 12-month finding in the **Federal Register** on October 9, 2001 (66 FR 51362), and documented that the BCT was not warranted for listing under the Act because it was neither endangered nor likely to become endangered within the foreseeable future throughout all or a significant portion of its range.

On February 17, 2005, we were sued by the Center for Biological Diversity, and others, on the merits of the 12-month finding. On March 7, 2007, the District Court of Colorado dismissed the lawsuit after determining that Plaintiffs failed to demonstrate the not warranted finding was arbitrary, capricious, or contrary to law. The Plaintiffs appealed to the 10th Circuit Court of Appeals on May 4, 2007.

On March 16, 2007, in the interim between the lawsuit dismissal and appeal, the Solicitor of the Department of the Interior issued a formal opinion regarding the legal interpretation of the term "significant portion of the range" of a species (DOI 2007). The opinion provides guidance on analysis intended to determine whether a species is in danger of extinction throughout a significant portion of its range when it is not in danger of extinction throughout its entire current range. Because this opinion was pertinent to the BCT decision, we withdrew the 2001 12-month finding for BCT (USFWS 2007, entire), and initiated a new status review to include significant portion of the range analysis. We published a notice in the **Federal Register** (73 FR 7236) announcing the opening of a comment period from February 7 through April 7, 2008. The notice specified that the new status review would include consideration and analysis of all information previously submitted, and any new information provided regarding the status of the BCT.

Species Biology

The BCT is native to the Bonneville basin, and is 1 of 14 subspecies of cutthroat trout recognized by Behnke (1992, pp. 3-21, 132-138) that are native to interior regions of western North America. BCT generally have large, evenly distributed spots, but a high degree of intra-basin variation exists. BCT tend to develop large, pronounced spots that are evenly distributed on the sides of the body rather than concentrated posteriorly as in the Yellowstone cutthroat trout (*Oncorhynchus clarkii bouveri*)