

public hearing that appeared in the **Federal Register** on Monday, July 21, 2003, (68 FR 43055), announced that a public hearing was scheduled for Tuesday, November 18, 2003, at 10 a.m. in the Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under sections 446, 860, and 863 of the Internal Revenue Code. The public comment period for these proposed regulations expired on Monday, October 20, 2003. Outlines of oral comments were due on Tuesday, October 28, 2003.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Wednesday, November 5, 2003, no one has requested to speak. Therefore, the public hearing scheduled for Tuesday, November 18, 2003, is cancelled.

**Cynthia E. Grigsby,**  
Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

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**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

[Docket No. FEMA-B-7441]

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency (FEMA), 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 below table.

**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:** FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, 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.

**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 proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs 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 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 recordkeeping 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.

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	Elevation in feet *(NGVD) Elevation in feet •(NVAD)		Communities affected
		Effective	Modified	
<b>Sioux County, and Incorporated Areas</b>				
Cannonball River .....	Approximately 4,300 feet downstream of Rice Street .....	None	•1,658	Standing Rock Indian Reservation, ND and City of Solen
	Approximately 7,700 feet upstream of Rice Street .....	None	•1,668	

Flooding source(s)	Location of referenced elevation	Elevation in feet *(NGVD) Elevation in feet •(NVAD)		Communities affected
		Effective	Modified	
Grand River (at Bullhead) .....	Approximately 4,000 feet downstream of confluence of Rock Creek.	None	•1,759	Standing Rock Indian Reservation, SD
	Approximately 4,600 feet upstream of confluence of Stink Creek.	None	•1,774	
Grand River (at Little Eagle)	Approximately 3.4 miles downstream of the State Route 63.	None	•1,638	Standing Rock Indian Reservation, SD
Oak Creek .....	Approximately 2,000 feet upstream of Old Irrigation Dam	None	•1,651	Standing Rock Indian Reservation, SD
	Approximately 7,500 feet downstream of Sewage Lagoons.	None	•1,622	
Rock Creek .....	Approximately 2,900 feet upstream of Old Irrigation Dam	None	•1,646	Standing Rock Indian Reservation, SD
	At confluence with Grand River (at Bullhead) .....	None	•1,761	
	Approximately 7,500 feet upstream of Bullhead Road .....	None	•1,793	

#Depth in feet above ground  
 \* National Geodetic Datum  
 • National American Vertical Datum

**Addresses:**

*Standing Rock Indian Reservation, ND & SD:*

Maps are available for inspection at the Department of Tribal Land Management, South River Road, Fort Yates, North Dakota 58538. Send comments to the Honorable Charles Murphy, Chairman, Standing Rock Sioux Tribe, P.O. Box D, Fort Yates, North Dakota 58538.

*City of Solen:*

Maps are available for inspection at the Engineering Department, 306 Leach Street, Solen, North Dakota 58570. Send comments to the Honorable Larry Froelich, Mayor, City of Solen, P.O. Box 117, Solen, North Dakota 58570.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. * Elevation in feet. (NGVD)	
				Existing	Modified
South Dakota	Hill (City), Pennington County.	Spring Creek .....	Approximately 1.2 miles upstream of U.S. Highway 16/385.	None	* 4,934
			Approximately 1.3 miles upstream of U.S. Highway 16/385.	* 4,937	* 4,937

#Depth in feet above ground  
 \* Elevation in feet  
 Maps are available for inspection at City Hall, 324 Main Street, Hill City, South Dakota 57745. Send comments to The Honorable Peter J. Stach, Mayor, City of Hill City, P.O. Box 395, Hill city, South Dakota 57745.

South Dakota	Pennington County .....	Spring Creek (downstream of corporate limit of City of Hill City).	At Calumet Road .....	None	* 4,640
			Approximately 1.2 miles upstream of U.S. Highway 16/385.	None	* 4,934
		Spring Creek (upstream of corporate limit of City of Hill City).	Approximately 400 feet upstream of the Burlington Northern Railroad.	* 5,010	* 5,014
			Approximately 1 mile upstream of U.S. Highway 16/385.	None	* 5,309

#Depth in feet above ground  
 \* Elevation in feet  
 Maps are available for inspection at the County Courthouse, 315 Saint Joseph Street, Rapid City, South Dakota 57701. Send comments to The Honorable Kenneth Davis, Chairperson, Pennington County Board of Commissioners, 315 Saint Joseph Street, Rapid City, South Dakota 57701.

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

Dated: November 4, 2003.

**Anthony S. Lowe,**

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

[FR Doc. 03-28168 Filed 11-7-03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 031028268-3268-01; I.D. 091603F]

RIN 0648-AR12

#### Atlantic Highly Migratory Species; Bluefin Tuna Season and Size Limit Adjustments

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to amend regulations under the framework provisions of the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) governing the Atlantic bluefin tuna (BFT) fishery regarding the opening date of the Purse seine category, closure dates of the Harpoon and General categories, and size tolerances of large medium BFT for the Purse seine and Harpoon categories. The intent of this proposed rule is to further achieve domestic management objectives under the HMS FMP and Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Written comments must be received on or before November 28, 2003. The public hearing dates are:

1. November 24, 2003, 7 p.m.-9 p.m., Atlantic Beach, NC.

2. November 25, 2003, 7 p.m.-9 p.m., Gloucester, MA.

**ADDRESSES:** Written comments on the proposed rule should be sent to Dianne Stephan, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Dr. Gloucester, MA 01930. Comments also may be sent via facsimile (fax) to (978) 281-9340. Comments will not be accepted if submitted via e-mail or the Internet.

The public hearing locations are:

1. Sheraton Atlantic Beach Oceanfront Hotel, 2717 W. Fort Macon Road, Atlantic Beach, NC 28512.

2. Sawyer Free Library, 2 Dale Avenue, Gloucester, MA 01930.

#### FOR FURTHER INFORMATION CONTACT:

Dianne Stephan at (978) 281-9397.

**SUPPLEMENTARY INFORMATION:** Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and the Atlantic Tunas Convention Act (ATCA). ATCA authorizes the Secretary of Commerce (Secretary) to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

#### Background

On May 28, 1999, NMFS published in the FEDERAL REGISTER (64 FR 29090) final regulations, effective July 1, 1999, implementing the HMS FMP that was adopted and made available to the public in April 1999. This action proposes to amend the current HMS regulations regarding quota category opening and closure dates for the Purse seine, Harpoon and General categories and size tolerances for large medium BFT, measuring 73 to less than 81 inches (185 to less than 206 cm), in the Harpoon and Purse seine categories. NMFS issues this proposed rule to solicit public comment on the merits and potential impacts of these changes to the HMS regulations, which are intended to further the objectives of the HMS FMP. After consideration of public comment, NMFS will publish a final rule in the **Federal Register**.

Several additional issues regarding the domestic management of BFT were discussed at length during the most recent HMS Advisory Panel (AP) meeting held in Silver Spring, MD, many of which are beyond the scope of this action and will be addressed through a future HMS FMP amendment. These issues may include, but are not limited to, adjustment of domestic BFT quota allocation percentages, adjustment of General category time-period subquotas, and addressing the BFT quota allocation aspects of the Petition for Rulemaking (Petition) submitted by the North Carolina Department of Marine Fisheries (see Notice of Receipt of Petition, 67 FR 69502, November 18, 2002). Because these issues require further analysis and public input, NMFS has announced its intent to address these additional issues

through an HMS FMP amendment (68 FR 40907, July 9, 2003).

#### Adjustment of the Purse Seine Category Start Date

The Purse seine category start date was originally designed to minimize potential gear conflicts between the purse seine fishery and the handgear fishery for BFT. During the early 1970's, the opening of the purse seine BFT season was determined by the Regional Director and fluctuated between September 1 and the day after Labor Day. Since the late 1970's, August 15 has been the official start date for the Purse seine category BFT fishery (44 FR 36049, June 20, 1979), while June 1 has been the start date of the handgear fisheries (i.e., General and Harpoon categories). August 15 was determined as an appropriate start date for the Purse seine category as the majority of BFT handgear landings took place early in the season (i.e., July through early August). However, over the past several years there has been a shift in the commercial handgear landings to the fall months, which results in a large portion of General category BFT being landed simultaneously with Purse seine category landings. This can potentially re-create the gear conflicts originally intended to be avoided by the August 15 Purse seine start date as well as cause market gluts of BFT being exported from the United States, thus depressing ex-vessel prices and revenues (\$13,948,190 and \$3,066,034, respectively for 2002) in these two categories.

Thus, NMFS proposes to adjust the start date of the Purse seine category BFT fishery to commence on July 15 of each fishing year. This proposed action would be consistent with the original intent behind the creation of the Purse seine category start date to minimize conflicts with other gear types and permit categories, as well as maximize economic yields from General and Purse seine category landings (i.e., avoid market gluts). This proposed action should have a positive economic impact to the BFT fishery as a whole, although the Harpoon category may experience a minor negative economic impact. This proposed action is not expected to have substantial ecological impacts because there would be no changes to the current mortality level of BFT or of any non-target species.

#### Establishment of a Harpoon Category End Date

On June 13, 1980, NMFS established the Harpoon category (45 FR 40118) with the intent to create a quota category in which harpoons were the only permissible gear type in order to