

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

Dated: June 24, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03-16540 Filed 6-30-03; 8:45 am]

BILLING CODE 6718-04-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA-B-7437]

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 following table.

FOR FURTHER INFORMATION CONTACT: Mary Jean Pajak, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-2831.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency 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)		Communities affected
		Effective	Modified	
CALIFORNIA				
Merced County, and Incorporated Areas.				
Bear Creek	At McKee Road	*183	*183	Merced County (Uninc. Areas).
Black Rascal Diversion Channel.	Just upstream of Bear Creek Drive	None	*225	Merced County (Uninc. Areas).
	At confluence with Bear Creek	None	*199	
Local Ponding	Approximately 3,700 feet upstream East Olive Avenue.	None	*202	Merced County (Uninc. Areas), City of Merced.
	Northeast of the intersection of East Childs Avenue and Fairfield Canal.	None	*200	
Local Ponding	Northeast of the intersection of Mission Avenue and South Arboleda Drive.	None	*200	Merced County (Uninc. Areas), City of Merced.
	Northeast of the intersection of East Childs Avenue and Tower Road.	None	*196	
	Southeast of the intersection of Le Grand Road and US Highway 99.	None	*196	

Flooding source(s)	Location of referenced elevation	Elevation in feet *(NGVD)		Communities affected
		Effective	Modified	
	Northeast of the intersection of Gerard Avenue and the Fairfield Canal.	None	*196	
Local Ponding	Northeast of the intersection of Mission Avenue and the Fairfield Canal.	None	*193	Merced County (Uninc. Areas).
Local Ponding	Northeast of the intersection of East Childs Avenue and Kirby Road.	None	*191	City of Merced.
Local Ponding	Northwest of the intersection of State Highway 140 and Easy Street.	None	*190	Merced County (Uninc. Areas), City of Merced.
Local Ponding	Southeast of the intersection of US Highway 99 and Mariposa Way.	None	*189	Merced County (Uninc. Areas).
Local Ponding	Northeast and Southeast of the Intersection of East Childs Avenue and the Hartley Bradley Lateral.	None	*186	Merced County (Uninc. Areas), City of Merced.
Local Ponding	Southeast of the intersection of US Highway 99 and Vassar Avenue.	None	*183	Merced County (Uninc. Areas).
Local Ponding	Southeast of the intersection of US Highway 99 and Mission Avenue.	None	*179	Merced County (Uninc. Areas).
	Northeast of the intersection of Sandy Mush Road and Givens-Lustre Road.	None	*179	
Local Ponding	Northeast and Southeast of the intersection of US Highway 99 and McHenry Road.	None	*185	Merced County (Uninc. Areas).
Local Ponding	Southeast of the intersection of East Childs Avenue and Carol Avenue.	None	*176	City of Merced.
Local Ponding	Northeast of the intersection of Mission Avenue and Tyler Road.	None	*165	Merced County (Uninc. Areas).
Local Ponding	Northeast of the intersection of Healy Road and Deadman Creek.	None	*164	Merced County (Uninc. Areas).
Local Ponding	Northeast of the intersection of State Highway 59 and Duck Slough.	None	*151	Merced County (Uninc. Areas).
Local Ponding	Northeast of the intersection of Mariposa Way and Burchell Avenue.	None	*237	Merced County (Uninc. Areas).
Local Ponding	Northeast of the intersection of Gerard Avenue and Plainsburg Avenue.	None	*226	Merced County (Uninc. Areas).
Local Ponding	Southeast of the intersection of Kadota Avenue and Plainsburg Road.	None	*222	Merced County (Uninc. Areas).
Shallow Flooding	From the intersection of Woodland Avenue South and West to State Highway 59.	None	#1	Merced County (Uninc. Areas), City of Merced.
	From the AT & SF Railroad West to State Highway 59.	None	#1	
Shallow Flooding	From the AT & SF Railroad West to State Highway 59.	None	#2	Merced County (Uninc. Areas).
Shallow Flooding	Northeast of the intersection of State Highway 59 and Duck Slough.	None	#3	Merced County (Uninc. Areas).

ADDRESSES

Merced County (Unincorporated Areas)

Maps are available for inspection at Merced County Department of Public Works, 715 Martin Luther King Jr. Way, Merced, CA 95340.

Send comments to The Honorable Joe Rivero, Chairman, Merced County Board of Supervisors, 2222 M Street, Merced, CA 95340.

City of Merced

Maps are available for inspection at City Hall, 678 West 18th Street, Merced, CA 95340.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Hawaii	Hawaii County	Kaluiiki Branch	At confluence of Waipahoehoe Stream and Alenaio Stream.	None	*754
			Approximately 200 feet upstream of Akala Road.	None	*860
		Waipahoehoe Stream	At confluence with Kaluiiki Branch and Alenaio Stream.	None	*754
			Approximately 100 feet upstream of Akala Road.	None	*811
		Alenaio Stream	Just upstream of Kaumana Drive	*708	*708
			At confluence of Kaluiiki Branch and Waipahoehoe Stream.	*752	*754

Maps are available for inspection at the Hawaii County Department of Public Works, Engineering Division, 25 Aupuni Street, Hilo, Hawaii 96720.

Send comments to The Honorable Harry Kim, Mayor, Hawaii County, 25 Aupuni Street, Hilo, Hawaii 96720.

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[FR Doc. 03-16541 Filed 6-30-03; 8:45 am]

BILLING CODE 6718-04-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 030617155-3155-01; I.D. 051903D]

RIN 0648-AR11

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Weakfish Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to: increase the incidental catch allowance for weakfish caught in the Exclusive Economic Zone (EEZ) from 150 lb (67 kg) to no more than 300 lb (135 kg) per day or trip, whichever is longer in duration; remove Massachusetts and Connecticut from the list of states where commercially caught weakfish from the EEZ can be landed; and add to our regulations the Director, Office of Sustainable Fisheries, as an official who can grant Exempted Fishing Permits. The intent of this proposed rule is to modify regulations for the Atlantic coast stock of weakfish to promote the effectiveness of the Commission's Interstate Fishery Management Plan (ISFMP) for weakfish.

DATES: Written comments must be received on or before July 31, 2003.

ADDRESSES: Comments on the proposed rule should be sent to, and copies of a Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), are available from, Anne Lange, Chief, State-Federal Fisheries Division (SF8), Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Suite 13317, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Tom Meyer, 301-713-2334.

SUPPLEMENTARY INFORMATION:

Background

NMFS is proposing to modify weakfish conservation measures in the EEZ under the authority of section 803(b) of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act), 16 U.S.C. 5101 *et seq.*, which states that, in the absence of an approved and implemented Fishery Management Plan under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and, after consultation with the appropriate Fishery Management Council(s), the Secretary of Commerce (Secretary) may implement regulations to govern fishing in the EEZ, i.e., from 3 to 200 nm offshore. These regulations must be (1) compatible with the effective implementation of an ISFMP developed by the Commission, and (2) consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act.

On November 21, 2002, the Commission approved and implemented Amendment 4 to the ISFMP for Weakfish (Amendment 4). Under Amendment 4, vessels fishing for weakfish must use mesh sizes of at least 3³/₄-inch (8.3 cm) square stretch mesh or 3³/₄-inch (9.5 cm) diamond stretch mesh for trawls and 2⁷/₈-inch (7.3 cm) stretch mesh for gillnets. Vessels using smaller mesh sizes cannot target weakfish, but often take this species as bycatch (i.e. non-directed fisheries). During development of Amendment 4, some states expressed concern that increased numbers of weakfish are being discarded as bycatch in these non-directed fisheries. Although research on discard mortality for weakfish is not available, fishermen have indicated that most discards are dead, and therefore, discard mortality has been assumed to be 100 percent. To address this concern, Amendment 4 provides that states may allow fishermen targeting species other than weakfish to possess up to 300 lb (135 kg) of weakfish in any one day or trip, whichever is the longer period of time, as incidental catch in state waters, provided that there is at least an equal poundage of other species on board the vessel. This is an increase of 150 lb (67 kg) from the Amendment 3 incidental weakfish catch allowance of 150 lb (67 kg). Any state that chooses to implement a 300-lb (135-kg) allowance must have a reporting system in place that will allow adequate quantification of any such catch. State management plans must also account for any harvest of weakfish from non-directed fisheries. The required reporting systems will provide information on weakfish

bycatch that will be needed by the Commission and NMFS in developing future regulations. Such information is currently limited. The Commission believes that this increase in allowance will contribute little to total landings, while the required reporting systems will result in improved data for future stock assessments

Status of the Weakfish Fishery

Amendment 4 incorporates results of the most recent weakfish stock assessments, developed by the Atlantic Coastal States, the Commission, and NMFS (Section 1.2.2 of Amendment 4). The 30th Northeast Regional Stock Assessment Workshop, in 2000, reviewed the weakfish stock assessment and concluded that weakfish were at a high level of abundance and subject to low fishing mortality rates. The assessment was subsequently updated, in 2002, with data through 2000. Spawning stock biomass has been building since 1993, and is currently well above the threshold of 31.8 million lb (14,400 MT). Estimates of fishing mortality, which reached a high in 1994 of 2.52, have been below 0.50, since 1995. The 2000 estimate is below the fishing mortality target of 0.31 and far below the fishing mortality threshold of 0.50.

Management measures implemented under Amendment 3 resulted in an increase in the size and age structure of the weakfish population. The estimate of the proportion of age 6+ fish had shrunk to only 0.3 percent of the total number of weakfish in 1990. This proportion has been increasing in recent years, reaching 6.8 percent of the total number in 2001. Measures implemented under Amendment 4 are designed to continue the expansion of the weakfish age and size structure to that necessary for full restoration of the stock, and to return weakfish to their previous geographic range.

Recommendation to the Secretary

On March 13, 2003, the Secretary received the following two recommendations from the Commission to implement regulations under the Atlantic Coastal Act: (1) Require that fishermen who harvest weakfish recreationally in the EEZ comply with the laws of the state where they are landed; and (2) allow fishermen in non-directed fisheries using smaller than certain specified mesh sizes to possess no more than 300 lb (135 kg) of weakfish during any one day or trip, whichever is longer in duration (an increase of 150 lb (67 kg) per day or trip). These two recommendations were part of five measures approved under