

**FEDERAL EMERGENCY
MANAGEMENT AGENCY**

44 CFR Part 65

[Docket No. FEMA-P-7600]

**Changes in Flood Elevation
Determinations**

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1-percent-annual-chance) Flood Elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified Base Flood Elevations for new buildings and their contents.

DATES: These modified Base Flood Elevations are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified Base Flood Elevations 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: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street, SW., Washington, DC 20472, (202) 646-3461 or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: The modified Base Flood Elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified Base Flood Elevation determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, 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.

The changes in Base Flood Elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This 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 Associate Director for Mitigation 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 interim 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 rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 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.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Missouri: St. Louis.	(Incorporated Areas).	November 1, 2000, November 8, 2000, <i>St. Louis Post Dispatch</i> .	The Honorable Buzz Westfall, St. Louis County Executive, 41 South Central Avenue, Clayton, Missouri 63105.	January 31, 2000	290327
Texas: Dallas & Collin.	City of Garland	October 12, 2000, October 19, 2000, <i>Garland News</i> .	The Honorable Jim Spence, Mayor, City of Garland, 200 North 5th Street, Garland, Texas 75046-9002.	September 8, 2000 ...	485471
Denton & Tarrant.	Town of Westlake.	December 8, 2000, December 15, 2000, <i>Denton Record Chronicle</i> .	The Honorable Scott Bradley, Mayor, Town of Westlake, 3 Village Circle, Suite 207, Westlake, Texas 76262.	March 16, 2001	480614

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

Dated: December 12, 2000.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 01-468 Filed 1-8-01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No.980331080-0286-03; I.D. 092100A]

RIN 0648-AK66

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) is issuing this final rule to amend the regulations that require most shrimp trawlers to use Turtle Excluder Devices (TEDs) in the waters of the Atlantic and Gulf Areas of the United States, to reduce the incidental capture of endangered and threatened sea turtles during shrimp trawling. Specifically, NMFS is permanently approving the Parker soft TED for use in the waters of the Atlantic and Gulf Areas of the United States.

DATES: This final rule is effective January 9, 2001.

ADDRESSES: Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 727-570-5312.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take and mortality of these species as a result of shrimp

trawling activities has been documented in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. Existing sea turtle conservation regulations (50 CFR 223.206 and 223.207) require most shrimp trawlers operating in the Gulf and Atlantic Areas, defined at 50 CFR 222.102, to have a NMFS-approved TED installed in each net rigged for fishing, year-round. TEDs currently approved by NMFS for shrimp trawling include single-grid hard TEDs and hooped hard TEDs conforming to a generic description, and two types of special hard TEDs. One type of soft TED—the Parker soft TED—was approved through October 13, 2000.

NMFS approved the Parker TED for use in the waters of the Atlantic and Gulf Areas of the United States through an interim final rule (63 FR 17948, April 13, 1998). The interim final rule was set to expire on October 13, 1999. At that time, NMFS determined that while there was sufficient information on the use and effectiveness of the Parker TED to continue to allow its use, there was insufficient information to permanently approve it. Also, industry expressed interest in the testing for approval of variations of the Parker soft TED design. Therefore, NMFS extended its approval for 1 year (64 FR 55434, October 13, 1999), to allow time for the collection of additional data on the use and effectiveness of the Parker TED and to allow time for the shrimp industry to tests new soft TED designs. The extension expired on October 13, 2000.

NMFS looked at many aspects of the Parker soft TED's performance over the past 30 months in both the Gulf of Mexico and the South Atlantic. Observers placed aboard commercial trawlers have documented sea turtle capture rates and finfish bycatch reduction. Intensive law enforcement efforts have ensured and documented compliance with the technical requirements for using the Parker TED. NMFS' gear specialists provided initial training to net shops and trawler fleets in the proper installation and use of the Parker TED. Follow-up assistance was also provided to fishermen and net makers as they adapted to using the new soft TED.

Observer Information

NMFS' observer information generally shows that the rate of sea turtle capture in the Parker soft TED is comparable to hard TEDs. In 1997-1998 in the southeastern Atlantic, observers documented three turtle captures in nets equipped with Parker TEDs. A total of

190 tows were observed, for 515 hours of trawling. The resulting turtle catch rate ("Catch per unit effort," or "CPUE") was 0.005 turtles per 100 ft (30.5 m) headrope-hour. During the same time period, observers documented 1 turtle capture in nets equipped with hard TEDs. A total of 62 tows were observed, for 161 hours of trawling, for a CPUE of 0.005 turtles per 100 ft (30.5 m) headrope-hour. Observations in the Gulf of Mexico revealed a similar situation, although turtle catch rates in the Gulf are much lower overall. In 1998, no turtle captures were documented by observers in 133 tows using Parker TEDs, totaling 1,352 hours of trawling. During the same time period, 2 turtle captures were documented by observers in nets equipped with hard TEDs. A total of 2,081 tows were observed, for a total of 9,632 hours of trawling, representing a CPUE of 0.0001. All of these observed catch rates for shrimp trawlers using hard TEDs and Parker TEDs are small and it is therefore difficult to make definitive comparisons.

Shrimp loss in the Parker TED was also a concern, therefore observer data was collected to test the Parker TED's reliability catching shrimp. Observer data from the Gulf and South Atlantic Fisheries Development Foundation and South Carolina Department of Natural Resources showed that nets equipped with a Parker TED experienced an 11.9 and 8.4 percent reduction in shrimp catch, respectively, compared to a hard TED-equipped net.

Observations by Law Enforcement

The Protected Resources Enforcement Team (PRET) is a specially-equipped team of NMFS law enforcement officers that focus enforcement attention on protected resources issues primarily TEDs—in the southeastern United States. In 1998, the PRET's first year in operation, the team logged 488 hours of at-sea patrols, boarding 261 vessels as part of the TED compliance project. PRET boardings in 1998 focused on nearshore shrimping grounds along the coasts of Texas, Louisiana, Georgia, and South Carolina. A large portion of the PRET's efforts in 1999 had been dedicated to patrols along the Texas coast, due to the continuing concern over the number of dead sea turtles that strand on Texas beaches. From March 16, 1999, through August 19, 1999, the PRET boarded 241 vessels along the Texas and Louisiana coasts.

Enforcement efforts in the South Atlantic prior to October 1999 also indicated that use of the Parker TED in the shrimp fleet was very low. The PRET only encountered one trawler