

Immediate Final Rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this approval in the preamble to the Immediate Final Rule. Unless we receive written comments which oppose this approval during the comment period, the Immediate Final Rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the Immediate Final Rule, and it will not take effect. We will then respond to public comments in a later Final Rule based on this proposal. You will not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

**DATES:** Send your written comments by May 3, 2004.

**ADDRESSES:** Written comments should be sent to Mike Giuranna, RCRA State Programs Branch, Waste & Chemicals Management Division (3WC21), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, telephone: (215) 814-3298. Comments may also be submitted electronically through the Internet to: [giuranna.mike@epa.gov](mailto:giuranna.mike@epa.gov) or by facsimile at (215) 814-3163. You may examine copies of the relevant portions of Delaware's and Maryland's regulations during normal business hours at EPA, Region III.

**FOR FURTHER INFORMATION CONTACT:** Mike Giuranna, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, Phone Number: (215) 814-3298, e-mail: [giuranna.mike@epa.gov](mailto:giuranna.mike@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information, please see the Immediate Final Rule published in the "Rules and Regulations" section of today's **Federal Register**.

Dated: January 8, 2004.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

[FR Doc. 04-7469 Filed 4-1-04; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[Docket No. FEMA-B-7445]

#### 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 table below.

**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:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
California .....	San Joaquin County.	Stanislaus River .....	Approximately 5 miles downstream of State Highway 99. Approximately 3 miles upstream of Santa Fe Railroad.	None	*45
				None	*93

\*Elevation in feet.

Maps are available for inspection at the Department of Public Works, 1810 East Hazelnut Avenue, Stockton, California 95202.

Send comments to The Honorable Leroy Ornellas, Chairman, San Joaquin County Board of Supervisors, 222 East Weber Avenue, Room 701, Stockton, California 85202.

California .....	Ripon (City), San Joaquin County.	Stanislaus River .....	Approximately 3.3 miles downstream of State Highway 99. Approximately 1.3 miles upstream of State Highway 99.	None	*48
				None	*57

\*Elevation in feet.

Maps are available for inspection at City Hall, 259 North Wilma Avenue, Ripon, California 95366.

Send comments to The Honorable Tim Hern, Mayor, City of Ripon, 259 North Wilma Avenue, Ripon, California 95366.

Flooding source(s)	Location of referenced elevation	Elevation in feet		Communities affected
		*(NGVD) Elevation in feet +(NAVD)		
		Effective	Modified	
Burgess Creek .....	At confluence with Walton Creek .....	*6,755	*6,749	Routt County (Uninc. Areas) and City of Steamboat Springs.
Elk River (Lower Reach) .....	Just upstream of Burgess Creek Road .....	None	+7,355	Routt County (Uninc. Areas).
	At confluence with Yampa River .....	None	+6,533	
Walton Creek .....	Approximately 1.5 miles upstream of County Road 44 .....	None	+6,712	Routt County (Uninc. Areas) and City of Steamboat Springs.
	At confluence with Yampa River .....	*6,754	+6,759	
Walton Creek Side Channel ..	Approximately 850 feet upstream of County Road 24 .....	None	+6,827	Routt county (Uninc. Areas).
	Approximately 500 feet downstream of County Road 24 .....	None	+6,810	
Yampa River Bypass (near Steamboat Springs).	At divergence from Walnut Creek main channel .....	None	+6,825	Routt County (Uninc. Areas).
	At confluence with Yampa River .....	*6,811	+6,816	
Yampa River near Hayden ....	Approximately 700 feet downstream of divergence from Yampa River.	*6,848	+6,853	Routt County (Uninc. Areas) and Town of Hayden.
	Approximately 2,600 feet downstream of U.S. Highway 40 ..	None	+6,314	
Yampa River Side channel 1	Approximately 1.3 miles upstream of U.S. Highway 40 .....	None	+6,424	Routt County (Uninc. Areas) and City of Steamboat Springs.
	At confluence with Yampa River main channel .....	*6,622	+6,626	
Yampa River Side Channel 2	At divergence from Yampa River main channel .....	*6,636	+6,635	City of Steamboat Springs.
	At confluence with Yampa River main channel .....	*6,710	+6,716	
Yampa River split Flow at Highway 131 (near Steamboat Springs).	At divergence from Yampa River main channel .....	*6,717	+6,724	Routt County (Uninc. Areas)
	At confluence with Yampa River .....	*6,825	+6,830	
	At divergence from Yampa river .....	*6,838	+6,843	
Yampa River near Steamboat Springs.	Approximately 1.5 miles downstream of County Road 179 ..	None	+6,483	Routt County (Uninc. Areas) and City of Steamboat Springs.
	Approximately 1.5 miles upstream of State Highway 131 .....	*6,861	+6,865	

\* National Geodetic Vertical Datum (to convert to NAVD, add 4.2 feet to NGVD elevation).

+ North American Vertical Datum.

**Addresses**

**Routt County (Unincorporated Areas)**

Maps are available for inspection at the Routt County Courthouse, 136 6th Street, Steamboat Springs, Colorado 80477.

Send comments to the Honorable Douglas B. Monger, Chairman, Routt County Board of Commissioners, P.O. Box 773598, Steamboat Springs, Colorado 80477.

Flooding source(s)	Location of referenced elevation	Elevation in feet *(NGVD) Elevation in feet +(NAVD)		Communities affected
		Effective	Modified	

#### City of Steamboat Springs

Maps are available for inspection at City Hall, 124 Tenth Street, Steamboat Springs, Colorado 80477.

Send comments to the Honorable Paul Strong, Council President, City of Steamboat Springs, P.O. Box 775088.

#### Town of Hayden

Maps are available for inspection at the Town Hall, 178 West Jefferson, Hayden, Colorado 81639.

Send comments to the Honorable Chuck Grobe, Mayor, Town of Hayden, P.O. Box 190, Hayden, Colorado 81639.

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

Dated: March 24, 2004.

**Anthony S. Lowe,**

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

[FR Doc. 04-7441 Filed 4-1-04; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### RIN 1018-AT35

### Endangered and Threatened Wildlife and Plants; Withdrawal of Proposed Rule To Reclassify the Pahrump Poolfish (*Empetrichthys latos*) From Endangered to Threatened Status

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), withdraw the proposed rule, published in the **Federal Register** on September 22, 1993 (58 FR 49279), to reclassify the Pahrump poolfish (*Empetrichthys latos*) from endangered to threatened status. We have determined that reclassification of this species at this time is not appropriate.

**ADDRESSES:** The complete file for this action is available for inspection, by appointment, during normal business hours at our Southern Nevada Field Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130.

**FOR FURTHER INFORMATION CONTACT:** Robert D. Williams, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, Nevada 89502 (telephone: 775/861-6300; facsimile: 775/861-6301).

#### SUPPLEMENTARY INFORMATION:

### Background

The Pahrump poolfish, family Goodeidae, was discovered by Gilbert in 1893, but was incorrectly identified as the Ash Meadows killifish (*Empetrichthys merriami*). Miller (1948) later described the Pahrump poolfish as the Pahrump killifish (*Empetrichthys latos latos*), which historically occupied an isolated spring (Manse Spring) on private property known as Manse Ranch in the Pahrump Valley of southern Nye County, Nevada.

When describing the Pahrump killifish, Miller also identified two other subspecies occurring in isolated springs in Nye County, the Pahrump Ranch killifish (*Empetrichthys latos pahrump*) inhabiting Pahrump Spring, and the Raycraft Ranch killifish (*E. l. concavus*) occurring in Raycraft Spring. Both of these subspecies became extinct in the late 1950s as a result of introduced carp (*Cyprinus* spp.) and desiccation of the springs from groundwater pumping (Miller 1948; Deacon and Williams 1984; Miller *et al.* 1989).

The only congener (member of the same genus) to these three subspecies, the Ash Meadows killifish, was documented by Gilbert (1893) and historically occupied numerous springs in nearby Ash Meadows, Nye County, Nevada. This species was last seen in 1948 and is believed to have gone extinct in the early 1950s, likely as a result of habitat alteration, and competition with and predation by, introduced nonnative crayfish (*Procambarus clarkii*), mosquitofish (*Gambusia affinis*), black mollies (*Mollienesia shenops*), and bullfrogs (*Rana catesbiana*) (Deacon and Nappé 1968; Soltz and Naiman 1978; Miller *et al.* 1989).

The common name of the genus *Empetrichthys* has since been changed from killifish to poolfish (Robins *et al.* 1991). Also, because the Pahrump poolfish (*Empetrichthys latos latos*) is now the only remaining representative of the species *E. latos*, the subspecies designation has been dropped; thus, the fish is currently known as the Pahrump

poolfish (*E. latos*) (Robins *et al.* 1991; Eschmeyer 1998; Integrated Taxonomic Information System 2002).

The Pahrump poolfish (poolfish) is a small fish that obtains an average maximum length of 3 inches (76.2 millimeters), with females generally larger than males (Service 1980; Deacon 1984a, 1984b, 1984c). The poolfish has a slender, elongate body with dorsal and anal fins placed far back, a broad upturned mouth, a dark longitudinal streak (which tends to disappear in older, larger individuals), and an orange ring around the eyes. On average, there are 30 to 32 scales in the lateral series (scales found along the lateral line, which is a series of porelike openings along the sides of a fish), but the number may vary from as low as 29 to a high of 33 scales (Sigler and Sigler 1987; La Rivers 1994). Poolfish lack pelvic fins, but the dorsal, anal, and caudal fins are bright orange-yellow when the fish are in an environment of optimal temperature and dissolved oxygen (Selby 1977; Soltz and Naiman 1978). The pectoral fins of the species typically have 16 to 18 rays (Sigler and Sigler 1987). The body of the poolfish is generally greenish-brown with black mottling, but males may be silver-blue without mottling during the spawning season (Soltz and Naiman 1978; Service 1980).

**Transplant History:** In 1975, poolfish were extirpated from their only known natural habitat, Manse Spring, as a result of desiccation of the spring from groundwater pumping and competition from nonnative goldfish (Deacon *et al.* 1964; J. Deacon, in litt. 1970). Anticipating the demise of the spring at Manse Ranch (Minckley and Deacon 1968), personnel from Federal and State agencies and academic institutions removed poolfish from Manse Spring during the early 1970s and transplanted poolfish to three locations in Nevada:

1. Los Latos Pool along the Colorado River, near Lake Mohave in June 1970 (J. Deacon in litt. 1970);
2. Corn Creek Springs on the Desert National Wildlife Refuge (DNWR), Clark