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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 215

[Docket No. 940414-4114; I.D. 032494B]

Marine Mammals; Subsistence Taking of Northern Fur Seals

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

ACTION: Proposed rule and subsistence harvest estimates for the Pribilof Islands.

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SUMMARY: NMFS is required to publish an estimate of the number of seals expected to be harvested in the current year to meet the subsistence needs of the Aleut residents of the Pribilof Islands, AK, pursuant to the regulations governing the subsistence taking of northern fur seals. The purpose of these regulations is to limit the take of fur seals to a level providing for the subsistence needs of the Pribilof residents and to restrict taking by sex, age, and season for herd management purposes. This notice estimates the number of seals to be taken in 1994. This notice also proposes to amend existing fur seal regulations, making the harvest take estimates applicable for 3 years instead of 1 year. This proposed amendment is based on the fact that a relatively consistent number of fur seals has been harvested each year since 1989, and that NMFS does not expect subsistence needs to increase such that takes for subsistence purposes will exceed the established upper limit of the subsistence harvest estimate range first established for the 1992 harvest.

DATES: Written comments must be received by June 13, 1994.

ADDRESSES: Comments should be addressed to Dr. William W. Fox, Jr., Director, Office of Protected Resources, (F/PR), 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Steve Zimmerman, (907) 586-7235, or Margot Bohan, (301) 713-2322.

SUPPLEMENTARY INFORMATION:

Background

The subsistence harvest of northern fur seals, *Callorhinus ursinus*, on the Pribilof Islands, AK, is governed by regulations found in 50 CFR part 215, subpart D--Taking for Subsistence Purposes. The purpose of these regulations, published under the authority of the Fur Seal Act (FSA), 16 U.S.C. 1151 et seq., and the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361 et seq., is to limit the take of fur seals to a level providing for the subsistence needs of the Pribilof residents and to restrict taking by sex, age, and season for herd management purposes. To minimize negative effects on the Pribilof Islands fur seal population, the harvest has been limited to a 47-day season (June 23-August 8) and is restricted to only subadult male fur seals.

Pursuant to the regulations governing the taking of fur seals for subsistence purposes, NMFS must publish a summary of the previous year's fur seal harvest (1993 harvest results were published on November 1, 1993 (58 FR 59297)), and a projection of the number of seals expected to be taken in the current year to meet the subsistence needs of the Aleut residents of the Pribilof Islands, AK.

The projected estimates are given as a range, the lower end of which may be exceeded if NMFS is given notice, and the Assistant Administrator for Fisheries, NOAA (AA), determines that the annual subsistence needs of the Pribilof Aleuts have not been satisfied (50 CFR 215.32(e)(3)). Conversely, the harvest can be terminated before the lower end of the range is reached if it is determined that the annual subsistence needs of the Pribilof residents have been met or the harvest has been conducted in a wasteful manner.

Subsistence Estimates and Trends

The number of northern fur seals harvested on St. Paul Island since 1986 has ranged from 1,077 (1990) to 1,710 (1987) (Table 1). The annual subsistence takes on St. George Island since 1986 have ranged from 92 (1987) to 319 (1993) seals (Table 1). Within the past 3 years, however, the number of fur seals harvested annually has been relatively consistent. Since 1991, the average number of seals harvested each year on St. Paul and St. George Islands has been 1,548 (range: 1,482-1,645) and 265 (range: 194-319), respectively (Table 1). Furthermore, the actual number of animals harvested has never reached the upper end of the estimated range. In 1992, for example, only 194 of the 365 fur seals originally estimated for subsistence need during that year were taken on St. George Island. In 1993, only 319 of the 407 seals requested were taken to meet the subsistence needs of St. George residents.

Table 1.-- Subsistence Harvest Levels for Northern Fur Seals on the Pribilof Islands, 1985-1993

harvest levels		Subsistence estimates		Actual
Year		St. Paul	St. George	St.
Paul	St. George			
1985.....				
3,384	329			
1986.....		2,400-8,000	800-1,800	
1,299	124			
1987.....		1,600-2,400	533-1,800	
1,710	92			
1988.....		1,800-2,200	600-740	
1,145	113			
1989.....		1,600-1,800	533-600	
1,340	181			
1990.....		1,145-1,800	181-500	
1,077	164			
1991.....		1,145-1,800	181-500	
1,645	281			
1992.....		1,645-2,000	281-500	
1,482	194			
1993.....		1,645-2,000	281-500	
1,518	319			

Estimate of Subsistence Need for 1994

NMFS has used the previous year's harvest levels as a baseline to estimate need in the current year. Household surveys have also been conducted by the tribal government on each island since 1992 to estimate, in part, the number of seals required to meet the subsistence needs of the Pribilof Islands residents (57 FR 22450, May 25, 1992, and 58 FR 32892, June 14, 1993). However, not all households can be assessed during a survey. Therefore, results of these surveys provide an index of need rather than an absolute estimate.

NMFS requested that the tribal government on each island determine the number of fur seals that each household would need for the coming year on January 13, 1994. This year's results were consistent with past subsistence harvest survey requests and take records. Therefore, NMFS proposes that the same estimate ranges be established for 1994 as were established for 1992 and 1993: 281-500 fur seals for St. George Island and 1,645 to 2,000 for St. Paul Island. NMFS' biologists will continue to monitor the entire harvest on St. George and St. Paul Islands to ensure that the harvest is carried out in a manner that fully complies with the regulations specified at 50 CFR 215.32.

As described earlier in this notice, if the Aleut residents of either island reach the lower end of this yearly harvest estimate and have unmet subsistence needs and no indication of waste, they may request an additional number of seals up to the upper limit of the respective harvest estimates. The residents of St. George Island and St. Paul Island may substantiate any additional need for seals by submitting in writing the information upon which they base their decision that subsistence needs are unfulfilled. The regulations at 50 CFR 215.32(e)(1)(iii) require a suspension of the fur seal harvest for up to 48 hours once the lower end of the estimated harvest levels is

reached. The suspension is to last no more than 48 hours, followed either by a finding that the subsistence needs have been met or by a revised estimate of the number of seals necessary to satisfy the Aleuts' subsistence needs.

#### Proposed Modification to Fur Seal Regulations

In a notice published on August 1, 1991, NMFS acknowledged the need to develop other methods to monitor the subsistence harvest conducted on the Pribilof Islands (56 FR 36735). In a workshop conducted by NMFS on November 5, 1991, NMFS recognized the need to reevaluate the regulatory issues regarding subsistence, to determine whether changes in the fur seal harvest from a commercial endeavor to one for subsistence may have warranted a revision of the current management regime.

As a first step towards addressing these concerns, NMFS proposes an amendment to Sec. 215.32 of the FSA regulations, allowing subsistence take estimates to be applicable for a 3-year period, beginning in 1994. During this 3-year period, NMFS will examine the current subsistence harvest management regime. The proposed amendment is based on the fact that the actual number of fur seals harvested each year since 1989 has been relatively consistent (Table 1), and the fur seal take has never exceeded the upper limit of the estimated range for subsistence need within any year of the harvest. Due to recent commercial development in the Pribilof Islands, NMFS anticipates that the subsistence needs will increase during the next 3 years, but, based on historical evidence to date, the annual subsistence needs are not expected to increase to levels exceeding the range established in the 1993 final estimate.

#### Classification

NMFS has determined that the approval and implementation of this proposed rule will not significantly affect the human environment, and that preparation of an Environmental Impact Statement on this is not required by section 102(2) of the National Environmental Policy Act or its implementing regulations. This rule makes only minor changes to the regulations governing the taking of fur seals for subsistence purposes; this action does not entail significant substantive revision. Because this rule does not alter the conclusions of previous environmental impact analyses and environmental assessments, it is categorically excluded by NOAA Administrative Order 216-6 from the requirement to prepare an environmental assessment.

This proposed rule has been determined to be not significant pursuant to E.O. 12866.

The General Counsel, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The only impact will be on individual native Alaskan residents of the Pribilof Islands due to revision of the schedule for estimating fur seal harvest levels from an annual estimate to an estimate applicable to a 3-year period. Therefore, a regulatory flexibility analysis was not prepared.

#### List of Subjects in 50 CFR Part 215

Administrative practice and procedure, Marine mammals, Penalties, Pribilof Islands, Reporting and recordkeeping requirements.

Dated: May 9, 1994.  
Charles Karnella,  
Acting Program Management Officer.

For the reasons set out in the preamble, 50 CFR part 215, subpart D, is proposed to be amended as follows:

#### PART 215--PRIBILOF ISLANDS

1. The authority citation for part 215 continues to read as follows:

Authority: 16 U.S.C. 1151-1175, 16 U.S.C. 1361-1384.

2. Section 215.32 is amended by revising paragraph (b) to read as follows:

Sec. 215.32 Restrictions on taking.

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(b) By April 1 of every third year, beginning April 1994, the Assistant Administrator will publish in the Federal Register a summary

of the preceding 3 years of harvesting and a discussion of the number of seals expected to be taken annually over the next three years to satisfy the subsistence requirements of each island. This discussion will include an assessment of factors and conditions on St. Paul and St. George Islands that influence the need by Pribilof Aleuts to take seals for subsistence uses and an assessment of any changes to those conditions indicating that the number of seals that may be taken for subsistence each year should be made higher or lower. Following a 30-day public comment period, a final notification of the expected annual harvest levels for the next 3 years will be published.

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