

On April 9, 2020, a failure occurred on the landowner's piping, causing damage to a nearby residential structure.

On January 29, 2021, the Pennsylvania Public Utility Commission's (PAPUC) Bureau of Investigation and Enforcement (BI&E) requested an interpretation of 49 CFR part 192 as it concerned the facts of this incident. On September 21, 2021, OPS issued an interpretation in response to BI&E's inquiry.<sup>1</sup> The 2021 Interpretation stated that the piping between Mifflin's production line and the landowner's meter was a service line under § 192.3; the lease agreement did not have an impact on whether the pipe was a service line; and Mifflin was an "operator" within the meaning of § 192.3.

On March 20, 2023, Mifflin filed a Petition with PHMSA requesting PHMSA issue an order declaring that, under a free gas arrangement, customer-owned piping upstream of a meter is not subject to 49 CFR part 192, and that a production line operator is not responsible for ensuring compliance with part 192 on customer piping. The Petition also requested that PHMSA rescind its 2021 Interpretation issued to BI&E. The Petition is available for review in the docket for this proceeding.

Before issuing a final decision on the Petition, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment received in issuing its final decision and order, which will be published in the **Federal Register** and posted to PHMSA's website.

PHMSA notes this is the first time a person has petitioned for issuance of a declaratory order under authority granted to PHMSA by the PIPES Act of 2020. See Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2020, Consolidated Appropriations Act, 2021, Division R, Public Law 116–260, section 108(a), 134 Stat. 1181, 2221, 2223; 49 U.S.C. 60117(b)(1)(J). PHMSA is committed to including an opportunity for public comment in circumstances in which it exercises its authority to issue a declaratory order.

Issued in Washington, DC, on November 3, 2023, under authority delegated in 49 CFR 1.97.

**Alan K. Mayberry,**

*Associate Administrator for Pipeline Safety.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 216

[RTID 0648–XD169]

#### Marine Mammals; Subsistence Taking of Northern Fur Seals; Pribilof and Aleutian Islands

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

**ACTION:** Notification of receipt of petition for rulemaking; request for comments.

**SUMMARY:** NMFS announces the receipt of a petition for rulemaking under the Administrative Procedure Act (APA). The Aleut Community of St. Paul Island (ACSPI), the Traditional Council of St. George Island (TCSGI), and the Aleut Marine Mammal Commission (AMMC) have petitioned NMFS to revise regulations governing the subsistence taking of northern fur seals. The revisions requested include: changing the current hunting season on St. Paul Island, Alaska to begin on October 15, creating an annual hunting season on St. George Island, Alaska to begin on October 15 and end on May 31, and creating an annual hunting season in the Aleutian Islands in Alaska to begin on November 1 and end on April 30, with an upper take limit for the Aleutian Islands of 100 non-breeding male fur seals. NMFS solicits public comments on this request. NMFS will consider all comments and available information when determining whether to proceed with rulemaking.

**DATES:** Comments must be received by December 11, 2023.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2023–091, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to <https://www.regulations.gov> and enter [NOAA–NMFS–2023–091] in the Search box. Click the "Comment" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Anne Marie Eich, NMFS Alaska Regional Office, 709 W. 9th St., P.O. Box 21668, Juneau, AK 99802.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of the petitions and letters are available at: <https://www.regulations.gov/docket/NOAA-NMFS-2023-091> or the NMFS Alaska Region website: <https://www.fisheries.noaa.gov/alaska/marine-mammal-protection/northern-fur-seal-subsistence-harvest-estimates-and-reports#subsistence-harvest-estimates>.

#### FOR FURTHER INFORMATION CONTACT:

Michael Williams, NMFS Alaska Region, 907–271–5117, [michael.williams@noaa.gov](mailto:michael.williams@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The subsistence use of northern fur seals on the Pribilof Islands is governed by regulations established under the Fur Seal Act in 50 CFR 216.71–74. These regulations were most recently revised on October 30, 2014 (79 FR 65327, November 4, 2014), and September 27, 2019 (84 FR 52372, October 2, 2019), to increase food security, consistent with traditional and cultural practices, and deregulate aspects of the subsistence use of northern fur seals on the Pribilof Islands. ACSPI, TCSGI, and AMMC report that Alaska Native subsistence users have experienced the direct effects of climate change through unprecedented storm frequency, timing, and duration. This has resulted in the reduction of the availability of and opportunity to obtain subsistence resources. As a result, the ACSPI, TCSGI, and the AMMC submitted requests to NMFS to change the regulations to expand fur seal hunting and harvesting opportunities to meet their customary and traditional needs and practices, as well as their subsistence needs. NMFS considers these requests to be a formal petition for rulemaking under the APA. The requests are as follows:

<sup>1</sup> PHMSA, Interp. No. PI–21–0003, In re Pennsylvania Public Utility Commission, (Sept. 1, 2021) (the "2021 Interpretation").

### 1. *Change the Current Hunting Season on St. Paul Island*

On November 2, 2022, ACSPI requested in a letter to NMFS that representatives from NMFS and ACSPI investigate the feasibility of changing the duration of the hunting season on St. Paul Island. Subsequent discussions by the St. Paul Island Marine Mammal Co-Management Council (which includes both NMFS and ACSPI representatives) identified regulatory changes to create greater food security and subsistence use opportunities on St. Paul Island.

Current regulations at 50 CFR 216.72(e)(1) allow subsistence hunting of northern fur seals with firearms from January 1 through May 31, annually. ACSPI requests NMFS modify regulations to allow the annual hunting season with firearms to begin October 15 and end consistent with the provisions at 50 CFR 216.72(g)(1)(i). This would result in a northern fur seal hunting season with firearms on St. Paul Island from October 15 through May 31, or when the overall quota for a calendar year is reached (2,000 juvenile male fur seals). ACSPI did not request any change to the overall quota of 2,000 juvenile northern fur seal males or the female mortality limit of 20 northern fur seals. Therefore, NMFS is not considering any changes to the quota or female mortality limit at this time.

### 2. *Create a Hunting Season on St. George Island*

Current regulations at 50 CFR 216.72(d) do not allow subsistence use of northern fur seals with firearms on St. George Island. The regulatory changes in 2014 (79 FR 65327, November 4, 2014) and 2019 (84 FR 52372, October 2, 2019) did not contemplate a hunting season to use firearms to take fur seals for subsistence on St. George Island.

The TCSGI submitted a letter to NMFS on June 8, 2023, requesting equitable subsistence hunting opportunities for the community of St. George by creating a hunting season using firearms annually from October 15 to May 31, similar to that proposed on St. Paul Island. The letter requested no change to the overall quota of 500 juvenile males, 150 male pups, or the female mortality limit of 3 northern fur seals. Therefore, NMFS is not considering any changes to the quota or female mortality limit at this time.

### 3. *Create a Hunting Season and Associated Upper Take Limit in the Aleutian Islands in Alaska*

On May 1, 2023, AMMC submitted a letter to NMFS outlining their interest in

resuming their traditional subsistence practices of taking fur seals. Harvesting fur seals on land in the Aleutian Islands is not practical, as the only breeding location is the uninhabited Bogoslof Island. However, northern fur seals migrate through the AMMC region (*i.e.*, the Aleutian Islands and Alaska Peninsula), which if authorized for subsistence use, could provide an additional subsistence resource for AMMC member communities. The 2019 Alaska Marine Mammal Stock Assessment Report (SAR) indicates declining availability of harbor seals over the past decade in the Aleutian Islands (Muto *et al.*, 2020). The 2019 SAR for the Western Distinct Population Segment (DPS) of Steller sea lion, which includes most sea lions in the Aleutian Islands where hunting may occur, also notes historically low abundance and availability in this region (some Eastern DPS animals may occur in the area, but it is unclear to what extent) (Jemison *et al.*, 2013; Jemison *et al.*, 2018; Muto *et al.*, 2020). Both harbor seals and Steller sea lions are important subsistence resources in the Aleutian region, and hunting of northern fur seals for subsistence would improve food security for AMMC member tribes. The AMMC letter requests a revision of the regulations at 50 CFR 216.72(b) to allow a total take of 100 non-breeding male fur seals by hunting with firearms from November 1 through April 30 in the AMMC region from their 11 member tribes in the communities of Atka, Belkofski, Akutan, False Pass, Agdaagux, Nelson Lagoon, Nikolski, Pauloff Harbor, Qagan Tayagungin, Unalaska, and Unga.

### Request for Information

The Assistant Administrator for Fisheries, has determined that the petition contains enough information to enable NMFS to consider the substance of the petition. NMFS solicits public comment on these three related requests to modify regulations that govern the taking of fur seals for subsistence purposes by Alaska Native residents of the Pribilof and Aleutian Islands. NMFS is particularly interested in information that would allow an evaluation of the effects these potential changes may have on food security, the fur seal population, and the temporal and spatial distribution of hunting effort. NMFS will consider public comments received in determining whether to proceed with the requested regulations revisions. Upon determining whether to initiate the requested rulemaking, the Assistant Administrator for Fisheries, will publish in the **Federal Register** the

Agency's notice of proposed rulemaking with a request for public comment.

### References

- Jemison, L.A., G.W. Pendleton, L.W. Fritz, K.K. Hastings, J.M. Maniscalco, A.W. Trites, and T.S. Gelatt. 2013. Inter-population movements of Steller sea lions in Alaska with implications for population separation. *PLoS ONE* 8(8):e70167.
- Jemison, L.A., G.W. Pendleton, K.K. Hastings, J.M. Maniscalco, and L.W. Fritz. 2018. Spatial distribution, movements, and geographic range of Steller sea lions (*Eumetopias jubatus*) in Alaska. *PLoS ONE* 13(12):e0208093.
- Muto, M.M., V.T. Helker, B.J. Delean, R.P. Angliss, P.L. Boveng, J.M. Breiwick, B.M. Brost, M.F. Cameron, P.J. Clapham, S.P. Dahle, M.E. Dahlheim, B.S. Fadely, M.C. Ferguson, L.W. Fritz, R.C. Hobbs, Y.V. Ivaschenko, A.S. Kennedy, J.M. London, S.A. Mizroch, R.R. Ream, E.L. Richmond, K.E.W. Shelden, K.L. Sweeney, R.G. Towell, P.R. Wade, J.M. Waite, and A.N. Zerbini. 2020. Alaska Marine Mammal Stock Assessments, 2019. U.S. Dept. of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Alaska Fisheries Science Center, Seattle, WA, July 2020. NOAA Technical Memorandum NMFS-AFSC-404, 395 pp.

Dated: November 6, 2023.

**Samuel D. Rauch, III**,  
Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 231101-0258]

RIN 0648-BM46

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; Amendment 56

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

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

**SUMMARY:** NMFS proposes to implement management measures described in Amendment 56 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) as prepared by the Gulf of Mexico