

reasonable efforts to determine the correct mailing address. If VA is unable to determine the veteran's or survivor's correct address through reasonable efforts, VA will reduce benefits to the rate of \$0.50 for each dollar authorized under law, effective the first day of the month that follows the month for which VA last paid benefits.

(Authority: 38 U.S.C. 107)

■ 7. In § 3.1600, paragraphs (a) and (b) introductory text are revised to read as follows:

§ 3.1600 Payment of burial expenses of deceased veterans.

* * * * *

(a) *Service-connected death and burial allowance.* If a veteran dies as a result of a service-connected disability or disabilities, an amount not to exceed the amount specified in 38 U.S.C. 2307 (or if entitlement is under § 3.40(b), (c), or (d), an amount computed in accordance with the provisions of § 3.40(b) or (c)) may be paid toward the veteran's funeral and burial expenses including the cost of transporting the body to the place of burial. Entitlement to this benefit is subject to the applicable further provisions of this section and §§ 3.1601 through 3.1610. Payment of the service-connected death burial allowance is in lieu of payment of any benefit authorized under paragraph (b), (c) or (f) of this section.

(Authority: 38 U.S.C. 2307)

(b) *Nonservice-connected death burial allowance.* If a veteran's death is not service-connected, an amount not to exceed the amount specified in 38 U.S.C. 2302 (or if entitlement is under § 3.40(b), (c), or (d), an amount computed in accordance with the provisions of § 3.40(b) or (c)) may be paid toward the veteran's funeral and burial expenses including the cost of transporting the body to the place of burial. Entitlement is subject to the following conditions:

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 050623166-6027-02; I.D. 061505B]

RIN 0648-AT49

Marine Mammals; Subsistence Taking of Northern Fur Seals; Harvest Estimates

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

ACTION: Final fur seal harvest estimates.

SUMMARY: Pursuant to the regulations governing the subsistence taking of northern fur seals, NMFS is publishing the annual fur seal subsistence harvests on St. George and St. Paul Islands (the Pribilof Islands) for 2002 to 2004, and the annual estimates for the fur seal subsistence needs from 2005 through 2007. NMFS estimates the annual subsistence needs are 1,645-2000 seals on St. Paul and 300-500 seals on St. George.

DATES: Effective March 20, 2006.

FOR FURTHER INFORMATION CONTACT: Michael Williams, (907) 271-5006, e-mail Michael.Williams@noaa.gov; Kaja Brix, (907) 586-7824, e-mail Kaja.Brix@noaa.gov; or Tom Eagle, (301) 713-2322, ext. 105, e-mail Tom.Eagle@noaa.gov.

SUPPLEMENTARY INFORMATION: Electronic Access

A Final Environmental Impact Statement (EIS) is available on the Internet at the following address: <http://www.fakr.noaa.gov/protectedresources/seals/fur.htm>.

The subsistence harvest from the depleted stock of northern fur seals, *Callorhinus ursinus*, on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR part 216, subpart F, Taking for Subsistence Purposes. The regulations require NMFS to publish every 3 years a summary of the harvest in the preceding 3 years and a discussion of the number of fur seals expected to be taken over the next 3 years to satisfy the subsistence requirements of residents of the Pribilof Islands (St. Paul and St. George). After a 30-day comment period, NMFS must publish a final notification of the expected annual harvest levels for the next 3 years.

On July 18, 2005 (70 FR 41187), NMFS published the summary of the

2002-2004 fur seal harvests and provided a 30-day comment period on proposed estimates of subsistence needs for 2005-2007. One comment letter was received on the proposed estimates. The letter identified two substantive points:

1. There are too many northern fur seals killed to eat, and
2. The season is too long.

The numbers of seals killed has been established through long-term needs analysis and monitoring. The established levels have been in place since 1997, and measures have been implemented to insure full use of each animal. Frequently the harvest is ended before the limits are reached, demonstrating good stewardship of the resource. The length of the season is based on avoiding the accidental harvest of females. Young females are difficult to distinguish from young males and studies have shown in late August the sexes are intermixed, whereas earlier in the summer they are not. The actual harvest frequently does not take the number of animals in the harvest estimates, thereby showing the length of harvest season does not contribute to an overharvest of animals. Final expected annual harvest levels for 2005 through 2007 are up to 1,645-2000 seals on St. Paul Island and up to 300-500 seals on St. George Island. Background information related to these estimates was included in the proposed harvest estimates.

Classification

National Environmental Policy Act

NMFS prepared an EIS evaluating the impacts on the human environment of the subsistence harvest on northern fur seals. The final EIS is available on the Internet (see Electronic Access).

Executive Order 12866 and Regulatory Flexibility Act

This action has been determined to be not significant under Executive Order (E.O.) 12866. The actions are not likely to result in (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; or (4) novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. The Chief Counsel for Regulation, Department of

Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. Because the harvest of northern fur seals on the Pribilof Islands, Alaska, is for subsistence purposes only, the estimate of subsistence need would not have an economic effect on any small entities. Therefore, a regulatory flexibility analysis was not prepared.

Paperwork Reduction Act

This action does not require the collection of information.

Executive Order 13132 – Federalism

This action does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 13132 because this action does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nonetheless, NMFS worked closely with local governments in the Pribilof Islands, and these estimates of subsistence needs were prepared by the local governments in St. Paul and St. George, with assistance from NMFS officials.

Executive Order 13175—Consultation and Coordination with Indian Tribal Governments

E.O. 13175 requires that if NMFS issues a regulation that significantly or uniquely affects the communities of Indian tribal governments and imposes substantial direct compliance costs on those communities, NMFS must consult with those governments, or the Federal government must provide the funds necessary to pay the direct compliance costs incurred by the tribal governments. This action does not impose substantial direct compliance costs on the communities of Indian tribal governments. Nonetheless, NMFS took several steps to work with affected tribal governments to prepare and implement the action. These steps included discussions on subsistence needs and mechanisms to ensure that the harvest is conducted in a non-wasteful manner. NMFS signed cooperative agreements with St. Paul in 2000 and with St. George in 2001 pursuant to section 119 of the MMPA.

Dated: February 10, 2006.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 224 and 229

[Docket No. 060213033–6033–01; I.D. 021006A]

RIN 0648–AU23

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan (ALWTRP) and Endangered Species Conservation; Restriction of Fishing Activities

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

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions on gillnet fishing in the Southeast U.S. Restricted Area through March 31, 2006, consistent with the requirements of the ALWTRP's implementing regulations. NMFS is taking this action based on its determination that a right whale mortality, documented on January 22, 2006, was the result of an entanglement by gillnet gear within the Southeast U.S. Restricted Area. This action is necessary to protect North Atlantic right whales from further serious injury or mortality from entanglement in gillnet gear in the Southeast U.S. Restricted Area.

DATES: This action is effective from 0001 hours February 15, 2006 through 2400 hours March 31, 2006.

ADDRESSES: Copies of the Environmental Assessment (EA) prepared in association with this temporary rule may be obtained from the persons listed below under **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Vicki Cornish, 727–824–5312, Juan Levesque, 727–824–5312, or Barb Zoodsma, 904–321–2806.

Electronic Access: Regulations and background documents for the ALWTRP can be downloaded from the ALWTRP Web site at <http://www.nero.noaa.gov/whaletrp/>.

SUPPLEMENTARY INFORMATION:

Background

The North Atlantic right whale (*Eubalaena glacialis*) was severely depleted by commercial whaling and despite protection from commercial harvest since 1935, has not recovered. The population is believed to be at or less than 300 individuals, making it one of the most critically endangered large whale species in the world (NMFS, 2005).

The North Atlantic right whale has been listed as endangered under the Endangered Species Act (ESA) since the ESA's passage in 1973 (35 FR 8495, June 2, 1970). In June 1994, NMFS declared three areas of the right whale's range in the United States as critical habitat: (1) Great South Channel, (2) Cape Cod Bay, and (3) the Southeastern U.S. (59 FR 28793, June 3, 1994). The Southeastern U.S. critical habitat includes coastal waters between 31°15' N lat. and 30°15' N lat. from the coast out 15 nautical miles, and the coastal waters between 30°15' N lat. and 28°00' N lat. from the coast out 5 nautical miles (50 CFR 226.203).

North Atlantic right whales occur in coastal and nearshore waters off the eastern United States and Canada, areas also used by fishing and other maritime activities that adversely affect the species. Deaths from collisions with ships and entanglement in fishing gear are significant impediments to the recovery of the species. From 1997 to 2001, human-caused mortality and serious injury to North Atlantic right whales from fishery entanglements and ship strikes was estimated as an average of 2.0 per year (Waring *et al.*, 2003). A serious injury has been defined as "any injury that will likely result in mortality" (50 CFR 216.3). Kraus *et al.* (2005) indicated that the overall mortality rate increased between 1980 and 1998 to a level of at least four percent per year, a rate that is not sustainable. The Potential Biological Removal (PBR) level for right whales is zero; thus, any mortality or serious injury to the species is considered significant.

The serious injury and mortality of the right whale as a result of commercial fishing activities continues to occur at a rate above PBR (Waring *et al.*, 2003). Knowlton and Kraus (2001) documented 56 right whale human-related serious injuries and deaths from 1970 to 1999, with at least 31 attributed to entanglements in fishing gear, for an average of 1.0 mortalities and serious injuries per year over that time period. Cole *et al.* (2005) documented, for 1999–2003, 31 reports of entanglements, 5 resulting in serious injuries and 3