

suggestions on this proposed rule. We particularly seek comments concerning:

(1) The reasons why we should or should not designate habitat as “critical habitat” under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the benefit of designation would outweigh any threats to the subspecies caused by designation such that the designation is not prudent;

(2) Specific information on:

- The amount and distribution of Salt Creek tiger beetle habitat;

- What areas occupied at the time of listing and that contain features essential for the conservation of the subspecies we should include in the designation and why; and

- What areas not occupied at the time of listing are essential to the conservation of the subspecies and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic, national security, or other relevant impacts resulting from the proposed designation and, in particular, any impacts on small entities;

(5) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments; and

(6) Economic data on the incremental costs of designating any particular area as Salt Creek tiger beetle critical habitat.

Previously submitted comments for this proposed rule need not be resubmitted. You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not consider comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <http://www.regulations.gov>.

### Background

On December 12, 2007, we published a proposed rule designating approximately 1,795 acres (727 hectares) of land in portions of Lancaster and Saunders Counties,

Nebraska, as critical habitat. The draft economic analysis estimates that, over the 20-year period from 2008 to 2027, post-designation costs for Salt Creek tiger beetle conservation-related activities would range between \$21.4 and \$25.5 million in undiscounted 2007 dollars. In discounted terms, we estimate potential post-designation economic costs to be \$19.9 to \$22.9 million (using a 3 percent discount rate) and \$18.5 to \$20.6 million (using a 7 percent discount rate). In annualized terms, potential impacts are expected to range from \$1.3 to \$1.5 million (annualized at 3 percent) and \$1.7 to \$1.9 million (annualized at 7 percent).

### Public Hearings

Section 4(b)(5)(E) of the Act requires a public hearing be held if any person requests it within 45 days of the publication of a proposed rule. In response to requests from the public, the Service will conduct a public hearing for this critical habitat proposal on the date and time and at the address identified in the **DATES** and **ADDRESSES** sections above.

Persons wishing to make an oral statement for the record are encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us. If you have any questions concerning the public hearing, please contact the Nebraska Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Persons needing reasonable accommodations in order to attend and participate in the public hearings should contact Bob Harms, Nebraska Ecological Services Field Office, at (308) 382-6468, extension 17, as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing date. Information regarding this notice is available in alternative formats upon request.

### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 21, 2008.

### Lyle Laverty,

*Assistant Secretary for Fish, Wildlife, and Parks.*

[FR Doc. E8-12401 Filed 6-2-08; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 216

[Docket No. 080310408-8416-01]

RIN 0648-AW55

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

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** Pursuant to regulations governing the subsistence taking of northern fur seals, this document summarizes the annual fur seal subsistence harvests on St. George and St. Paul Islands (the Pribilof Islands) for 2005 to 2007 and proposes annual estimates of fur seal subsistence needs for 2008 through 2010 on the Pribilof Islands, AK. NMFS solicits public comments on the proposed estimates.

**DATES:** Written comments must be received at the address or fax number by July 3, 2008.

**ADDRESSES:** Send comments to Kaja Brix, Assistant Regional Administrator, Protected Resource Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by “RIN 0648 AW55” by any of the following methods:

Electronic Submissions: Submit electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>;

Mail: Kaja Brix, Assistant Regional Administration, Protected Resource Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802;

Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK;

Fax: 907 586 7557, Attention: Ellen Sebastian.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments.

Attachments to electronic comments must be in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) file formats to be accepted.

**FOR FURTHER INFORMATION CONTACT:** Michael Williams, (907) 271-5006; Kaja Brix, (907) 586-7835; or Tom Eagle, (301) 713-2322, ext. 105.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

An Environmental Impact Statement is available on the Internet at the following address: <http://www.fakr.noaa.gov/protectedresources/seals/fur/eis/final0505.pdf>.

**Background**

The subsistence harvest from the depleted stock of northern fur seals (*Callorhinus ursinus*), on the Pribilof Islands, AK, is governed by regulations found in 50 CFR part 216, subpart F. 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, while restricting taking by sex, age, and season for herd conservation. To further minimize negative effects on the Pribilof Islands' fur seal population, the harvest has been limited to a 47-day season (June 23 to August 8).

There are several factors and conditions that affect the subsistence harvest of northern fur seals. Beginning in 2000, the take ranges have been discussed with each tribal government as part of the co-management relationship and agreement. Accurately predicting the annual subsistence needs of the Pribilof communities has been one of practical and social difficulties; the process to meet the take range regulation has resulted in acceptance of the ranges first established in 1987. These levels provide a degree of flexibility the communities feel comfortable with regarding changes and unanticipated needs within the community and the environment.

The variability of the harvest occurs for many reasons. Weather conditions and availability of animals varies annually. The availability of wage earning jobs reduces the time available for community members to hunt and harvest subsistence resources. Thus,

hunters may be unavailable to hunt in certain years or have more financial resources to hunt in subsequent years or seasons for other marine mammals. The current timing restriction on the northern fur seal hunt overlaps with the local halibut fishing season, and many of the hunters are also fishermen. In addition, crab fishery rationalization and a renewal of the crab harvest in the Pribilof region has provided local job opportunities that may extend into the spring hunting season for Steller sea lions. The level of Steller sea lion hunting success in the spring influences subsequent northern fur seal harvesting. Thus both Steller sea lions and northern fur seals combine to meet the subsistence needs of the local communities, with northern fur seals providing the more seasonal, but reliable source of the two species. Alaskan communities such as those of St. Paul and St. George Islands, rely on marine mammals as a major food source and cultural foundation of the communities. The harvest of juvenile male northern fur seals has occurred for well over 200 years and the biological implications are reasonably understood. Subsistence harvests under the current regulations are 10 percent or less than the commercial harvests during the past 50 years.

Pursuant to the regulations governing the taking of fur seals for subsistence purposes, NMFS must publish a summary of the fur seal harvest for the previous 3-year period and an estimate of the number of seals expected to be taken in the subsequent 3-year period to meet the subsistence needs of the Aleut residents of the Pribilof Islands.

**Summary of Harvest Operations and Monitoring 2005 to 2007**

The annual harvests were conducted in the established manner and employed the standard methods required under regulations at 50 CFR 216.72. NMFS personnel, a contract veterinarian, and tribal government staff monitored the harvest and communicated to further improve the efficiency of the annual harvest and full utilization of the animals taken. Annual northern fur seal harvest reports are received from the tribal governments of

both islands and from a contract veterinarian for St. Paul.

The reported male northern fur seal subsistence harvests for St. Paul from 2005 to 2007 were 466, 396, and 272 respectively (Lestenkof *et al.*, 2006; Lestenkof and Zavadil, 2006; Lestenkof and Zavadil, 2007), and for St. George from 2005 to 2007 were 139, 212, and 206, respectively (Lestenkof *et al.*, 2006; Malavansky and Malavansky, 2007). The number of male northern fur seals harvested on St. Paul Island from 1986 to 2007 ranged from 272 to 1,710, and the number harvested on St. George Island from 1986 to 2007 ranged from 92 to 319 seals. The average number of male seals harvested during the past 10 years on St. Paul and St. George Islands, respectively, has been 690 seals (range: 269 to 1,297) and 181 seals (range: 121 to 256), (Table 1).

The accidental harvest of young female fur seals has occurred intermittently during the male harvest. The regulations call for termination of the annual harvest on August 8 of each year to reduce the probability of the accidental killing of females to the lowest level practical. Thirty-two females on St. Paul and four females on St. George have been accidentally killed, since 1987. The average accidental killing of females on St. Paul and St. George Islands during the last 10 years is 2 and less than 1, respectively.

Under section 119 of the Marine Mammal Protection Act, cooperative agreements were signed with St. Paul in 2000 and with St. George in 2001 for the cooperative management of subsistence uses of northern fur seals and Steller sea lions. The processes defined in the cooperative agreements have facilitated a more collaborative working relationship between NMFS and tribal authorities. This has led to more coordinated efforts by the tribal governments of both islands to promote full utilization of inedible seal parts for traditional arts, crafts, and other uses permitted under regulations at 50 CFR 216.73. The result has been an expanded use of these materials by the Aleut residents and increased fulfillment of the non-wasteful harvest requirements.

**TABLE 1. SUBSISTENCE HARVEST LEVELS FOR JUVENILE MALE NORTHERN FUR SEALS ON THE PRIBILOF ISLANDS, 1986-2007**

Year	Expected Take Ranges		Actual Harvest Levels	
	St. Paul	St. George	St. Paul	St. George
1986	2,400-8,000	800-1,800	1,299	124
1987	1,600-2,400	533-1,800	1,704	92
1988	1,800-2,200	600-740	1,145	113

TABLE 1. SUBSISTENCE HARVEST LEVELS FOR JUVENILE MALE NORTHERN FUR SEALS ON THE PRIBILOF ISLANDS, 1986–2007—Continued

Year	Expected Take Ranges		Actual Harvest Levels	
	St. Paul	St. George	St. Paul	St. George
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	1,644	281
1992	1,645–2,000	281–500	1,480	194
1993	1,645–2,000	281–500	1,518	319
1994	1,645–2,000	281–500	1,615	161
1995	1,645–2,000	281–500	1,263	259
1996	1,645–2,000	281–500	1,588	232
1997	1,645–2,000	300–500	1,153	227
1998	1,645–2,000	300–500	1,297	256
1999	1,645–2,000	300–500	1,000	193
2000	1,645–2,000	300–500	754	121
2001	1,645–2,000	300–500	595	184
2002	1,645–2,000	300–500	646	202
2003	1,645–2,000	300–500	522	132
2004	1,645–2,000	300–500	493	123
2005	1,645–2,000	300–500	466	139
2006	1,645–2,000	300–500	396	212
2007	1,645–2,000	300–500	269	206

### Estimate of Subsistence Need for the Period 2008 to 2010

The projected subsistence harvest 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, determines that the annual subsistence needs of the Pribilof Aleuts have not been satisfied. Conversely, the harvest can be terminated before the lower end of the range is reached if the annual subsistence needs of the Pribilof residents are determined to have been met or the harvest has been conducted in a wasteful manner.

For the 3-year period, 2008 to 2010, NMFS proposes no change to the past and current ranges of 1,645–2,000 for St. Paul Island and 300–500 for St. George Island. Retaining these levels will provide adequate flexibility and adaptive management of the subsistence harvest through the co-management process.

As described earlier in this document, 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 and St. Paul Islands 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 216.72(e)(1) and (3) require a suspension of the fur seal harvest for up to 48 hours once the lower end of the

estimated harvest level 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. The harvest may also be suspended if the harvest has been conducted in a wasteful manner. NMFS seeks public comments on the proposed estimates.

The harvest of fur seals is anticipated to be non-wasteful and in compliance with the regulations specified at 50 CFR 216.72 which detail the restrictions and harvest. NMFS will continue to monitor the harvest on St. Paul Island and St. George Islands during 2008 to 2010.

### Classification

#### *National Environmental Policy Act*

NMFS prepared an Environmental Impact Statement (EIS) evaluating the impacts on the human environment of the subsistence harvest on northern fur seals. The Final EIS, which is available on the Internet (see Electronic Access) was subjected to public review (69 FR 53915, September 3, 2004), and the comments were incorporated into the final EIS.

#### *Executive Order 12866 and Regulatory Flexibility Act*

This proposed rule has been determined to be not significant rule under Executive Order (E.O.) 12866. The regulations 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; or (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. The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed 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, AK, 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 proposed action does not require the collection of information.

#### *Executive Order 13132—Federalism*

This proposed 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—Native Consultation*

Executive Order 13175 of November 6, 2000 (25 U.S.C. 450 Note), the executive Memorandum of April 29, 1994 (25 U.S.C. 450 note), and the American Indian Native Policy of the U.S. Department of Commerce (March 30, 1995) outline the responsibilities of the National Marine Fisheries Service in matters affecting tribal interests. Section 161 of Public Law 108–100 (188 Stat. 452) as amended by section 518 of Public Law 108–447 (118 Stat. 3267), extends the consultation requirements of E.O. 13175 to Alaska Native corporations. NMFS has contacted the tribal governments of St. Paul and St. George Islands and their respective local Native corporations (Tanadgusix and Tanaq) about setting the next three years harvest estimates and received their input.

Dated: May 27, 2008.

**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.070718362–7488–01]

**RIN 0648–AV14**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Revisions to Allowable Bycatch Reduction Devices**

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

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

**SUMMARY:** In accordance with the framework procedures for adjusting management measures of the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP), NMFS proposes to decertify the expanded mesh bycatch reduction device (BRD), the “Gulf fisheye” BRD, and the “fisheye” BRD, as currently specified, for use in the Gulf of Mexico (Gulf) shrimp fishery. NMFS would also

certify a new specification for the fisheye device to be used in the Gulf. The intended effect of this proposed rule is to improve bycatch reduction in the shrimp fishery and better meet the requirements of national standard 9.

**DATES:** Comments must be received no later than 4:30 p.m., eastern time, on July 3, 2008.

**ADDRESSES:** You may submit comments, identified by 0648–AV14, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal <http://www.regulations.gov>.
- Fax: 727–824–5308, Attn: Steve Branstetter.
- Mail: Steve Branstetter, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, Wordperfect, or Adobe PDF file formats only.

Copies of an Initial Regulatory Flexibility Analysis (IRFA), and Regulatory Impact Review (RIR) completed in support of the proposed rule are available from the Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 727–824–5305; fax: 727–824–5308.

**FOR FURTHER INFORMATION CONTACT:**

Steve Branstetter, telephone: 727–824–5305, fax: 727–824–5308, e-mail: [Steve.Branstetter@noaa.gov](mailto:Steve.Branstetter@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for shrimp in the exclusive economic zone (EEZ) of the Gulf is managed under the FMP prepared by the Gulf of Mexico Fishery Management Council (Council). The FMP is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

**Background**

Regulations implementing Amendment 9 to the FMP were published April 14, 1998 (63 FR 18139), and established a requirement, with limited exceptions, for the use of

certified BRDs in shrimp trawls towed in the Gulf EEZ shoreward of the 100–fin (183–m) depth contour west of 85°30′W. longitude (western Gulf), the approximate longitude of Cape San Blas, FL. The rule established descriptions of BRD designs and configurations allowed for use in the western Gulf shrimp fishery.

To better address the requirements of national standard 9 of the Magnuson-Stevens Act, regulations implementing Amendment 10 to the FMP (69 FR 1538, January 9, 2004) required BRDs in shrimp trawls fished in the EEZ east of 85°30′ W. longitude (eastern Gulf).

In accordance with the BRD framework procedures of the FMP, NMFS recently modified the existing BRD certification criterion for the western Gulf (73 FR 8219, February 13, 2008) to be consistent with the criterion for the eastern Gulf. The new criterion specifies a BRD must demonstrate a 30–percent reduction in the weight of finfish bycatch to be certified for use in the Gulf shrimp fishery.

The “fisheye” BRD and “Gulf fisheye” BRD are the two dominant BRD designs currently used in the western Gulf. These two BRDs are actually the same device; the only difference between them is their configuration (where they are placed within the cod end of the trawl). The “fisheye” BRD must be placed along the top center of the cod end of a shrimp trawl no further forward than 11 ft (3.4 m) from the cod end tie-off rings. Subsequent tests of the fisheye device in slightly different configurations led to the certification of the “Gulf fisheye” BRD. In the “Gulf fisheye” configuration, the device may be placed 15 meshes on either side of top center, between 8.5 ft (2.6 m) and 12.5 ft (3.8 m) from the cod end tie-off rings, thus expanding the allowable placement of the device. These two configurations of the fisheye device are also certified for use in the eastern Gulf.

Because of the fisheye-type device’s simplistic design and low cost in either configuration, it became the industry standard. The most commonly used configuration for the fisheye device in the Gulf shrimp fishery has the BRD placed 10.5 ft (3.2 m) to 12.5 ft (3.8 m) forward of the cod end tie-off rings. According to NMFS’ Southeast Fishery Science Center (SEFSC) estimates, the fisheye device in this configuration is achieving a 14–percent reduction in finfish bycatch by weight. Thus, it does not meet the new 30–percent finfish bycatch reduction criterion, established in separate rulemaking.

However, placed farther back in the cod end, the fisheye device is more effective. When placed no farther